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ABSTRACT

Pursuant to its responsibilities to advise the Commission on Civil Rights, the Maine Advisory Committee's hearings, investigations, and recommendations relative to Federal and State services for American Indians in Maine are detailed in this report. Dealing first with policy and law as manifest in: (1) Self-Determination; (2) Federal Indian Services; (3) State Policy and State Services; (4) Conflict in the State of Maine, This report also presents the committee's recommendations for the following: (1) Economic and Community Development; (2) Housing; (3) Health; (4) Education; (5) Welfare; (6) Foster Care; and (7) Law Enforcement and Public Safety. Major conclusions cited in this report are: (1) Maine Indians are being denied services provided other Native Americans by Federal agencies which is not only discriminatory but is also placing a disproportionate tax burden on Maine taxpayers. (2) Half the Indians in Maine are not receiving State Indian services because they live off-reservation. (3) The State should develop an integrated service program to serve all Maine Indians (Maliseets, Passamaquoddys, Penobscots, and Micmacs) regardless of their residency. (4) Current socioeconomic statistics reveal longstanding discriminatory practices (45 percent substandard housing, 65 percent unemployment, severe health problems, nonexistent bicultural education, and 4 out of 136 Indian foster children in Indian foster homes). (JC)

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FEDERAL AND STATE SERVICES AND THE MAINE INDIAN

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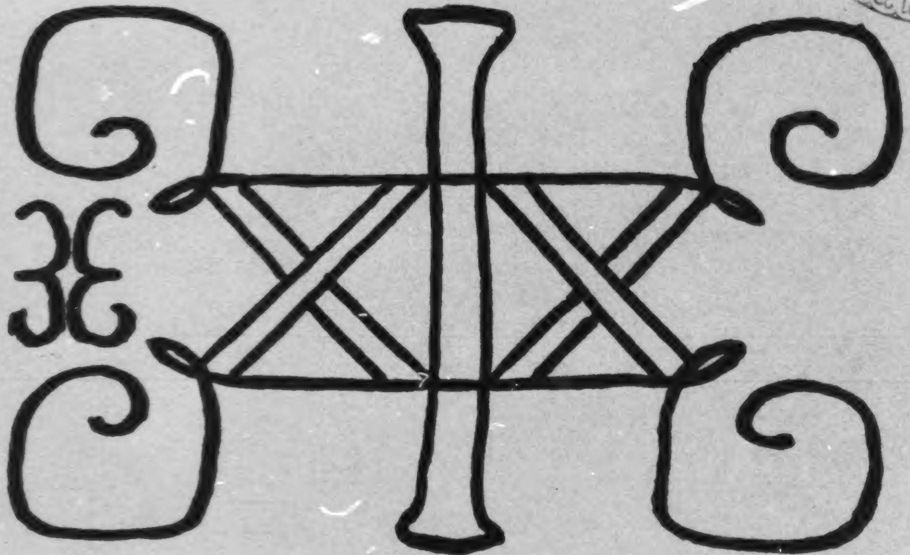

—A report of the Maine Advisory Committee to the United States Commission on Civil Rights prepared for the information and consideration of the Commission. This report will be considered by the Commission, and the Commission will make public its reaction. In the meantime, the findings and recommendations of this report should not be attributed to the Commission, but only to the Maine Advisory Committee.

December 1974

RC008969

FEDERAL AND STATE SERVICES AND THE MAINE INDIAN

A report prepared by the Maine
Advisory Committee to the U.S.
Commission on Civil Rights

ATTRIBUTION:

The findings and recommendations contained in this report are those of the Maine Advisory Committee to the U.S. Commission on Civil Rights and, as such, are not attributable to the Commission.

This report has been prepared by the State Advisory Committee for submission to the Commission, and will be considered by the Commission in formulating its recommendations to the President and the Congress.

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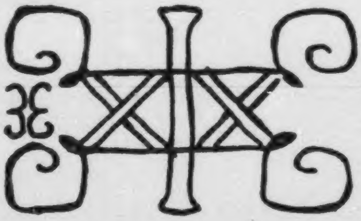

This design, known as the "double-curve motif," is of ancient Penobscot origin and is symbolic of inter-tribal unity. Similar designs are shared by the neighboring Micmacs, Maliseets, and Passamaquoddys who, with the Penobscots, form the Wabanaki Confederacy. This alliance was of considerable political importance from the year 1700 to the late 19th century. Tribal leaders in recent years have been working toward renewed cooperation.

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LETTER OF TRANSMITTAL

MAINE ADVISORY COMMITTEE TO THE
U.S. COMMISSION ON CIVIL RIGHTS
December 1974

MEMBERS OF THE COMMISSION
Arthur S. Flemming, Chairman
Stephen Horn, Vice Chairman
Frankie Freeman
Robert S. Rankin
Manuel Ruiz, Jr.

John A. Buggs, Staff Director

Sirs and Madam:

The Maine Advisory Committee, pursuant to its responsibility to advise the Commission about civil rights problems in this State, submits this report on Federal and State Services and the Maine Indian.

Through its investigation and hearing, the Advisory Committee concludes that Maine Indians are being denied services provided other American Indians by various Federal agencies including the Bureau of Indian Affairs, U.S. Department of the Interior; and the Indian Health Service, U.S. Department of Health, Education, and Welfare. The Committee further concludes that Maine's Indians are entitled to these services and that their continued denial constitutes invidious discrimination against Maine Indians while at the same time placing a disproportionate burden on Maine taxpayers.

The Advisory Committee also found that half of the Indians in Maine are not receiving State Indian services because they live off-reservation. The Committee recommends that the State develop an integrated program of services for members of the four tribes--Passamaquoddy, Penobscot, Micmac, and Maliseet--regardless of residency on- or off-reservation.

Both State and Federal services have been withheld from a people whose need for assistance is tragically evident: unemployment among Maine Indians as of 1973 was reliably estimated at 65 percent; a 1971 survey of off-reservation housing for Indians found 45 percent substandard and poor;

health studies of the Maine Indians reveal chronic and severe problems of alcoholism, malnutrition, and disease; bicultural education, which is central to the preservation of tribal values and traditions, is largely nonexistent; the ratio of Indian children in foster care homes is 16 times that of the general population, yet only 4 of the 136 Indian children under foster care in Maine have been placed in Indian homes--homes which in some cases were built by the State but are now considered physically inadequate to meet State licensing standards; and while Indians are held responsible for law enforcement on reservations, they are unable to set safe speed limits on State highways crossing their lands. The Advisory Committee concludes that these facts are not isolated quirks of circumstance: they are the result of long-standing assumptions, policies, and practices of discrimination against Maine's Native American population.

In addition to its investigation of the denial of specific Indian services, the Advisory Committee reviewed the various Federal and State programs for which Maine Indians are generally eligible as citizens. In these programs, the Advisory Committee found a wide spectrum of attitudes toward Maine Indians. It is evident that there are areas of progress. Yet, it is also clear that Indians have seldom been included in the planning or decision-making process which affects their lives.

If the Advisory Committee has an overriding concern, it is that every State and Federal entity which may possibly have impact on Indian people in this State must have Indian representation and structural input in the development and carrying out of services. Beyond this, there must be expansion of social services from both State and Federal levels if Maine Indians are in fact to enjoy full and equal citizenship under the Constitution.

Finally, we request that you, as the chief officials of the U.S. Commission on Civil Rights, act to assure the representation of Native Americans in the employment posture of the Commission and that you consider holding national hearings in the near future on the problems of the non-federally recognized tribes.

Sincerely,

/s/

Terry C. Polchies
Chairman, Indian Subcommittee

/s/

Gregory P. Buesing
Acting Chairman, Maine
Advisory Committee

ACKNOWLEDGMENTS

The Maine Advisory Committee wishes to thank the principal authors of this report, Andrew Akins; Gregory P. Buesing; Harriet Price, consultant to the U.S. Commission on Civil Rights; and Sonia Porter, Commission's Office of Field Operations. The Advisory Committee also wishes to thank the staff of the Commission's Northeastern regional office for its help in the preparation of this report. Legal review was provided by Eliot H. Stanley and overall supervision by Jacques E. Wilmore, regional director.

Final edit and review was conducted in the Commission's Office of Field Operations, Washington, D.C., by editor Bonnie Mathews, assisted by Rudella J. Vinson, under the direction of Charles A. Ericksen, chief editor. Preparation of all State Advisory Committee reports is supervised by Isaiah T. Creswell, Jr., Assistant Staff Director for Field Operations.

THE UNITED STATES COMMISSION ON CIVIL RIGHTS

The United States Commission on Civil Rights, created by the Civil Rights Act of 1957, is an independent, bipartisan agency of the executive branch of the Federal Government. By the terms of the Act, as amended, the Commission is charged with the following duties pertaining to denials of the equal protection of the laws based on race, color, sex, religion, or national origin: investigation of individual discriminatory denials of the right to vote; study of legal developments with respect to denials of the equal protection of the law; appraisal of the laws and policies of the United States with respect to denials of equal protection of the law; maintenance of a national clearinghouse for information respecting denials of equal protection of the law; and investigation of patterns or practices of fraud or discrimination in the conduct of Federal elections. The Commission is also required to submit reports to the President and the Congress at such times as the Commission, the Congress, or the President shall deem desirable.

THE STATE ADVISORY COMMITTEES

An Advisory Committee to the United States Commission on Civil Rights has been established in each of the 50 States and the District of Columbia pursuant to section 105(c) of the Civil Rights Act of 1957 as amended. The Advisory Committees are made up of responsible persons who serve without compensation. Their functions under their mandate from the Commission are to: advise the Commission of all relevant information concerning their respective States on matters within the jurisdiction of the Commission; advise the Commission on matters of mutual concern in the preparation of reports of the Commission to the President and the Congress; receive reports, suggestions, and recommendations from individuals, public and private organizations, and public officials upon matters pertinent to inquiries conducted by the State Advisory Committee; initiate and forward advice and recommendations to the Commission upon matters in which the Commission shall request the assistance of the State Advisory Committee; and attend, as observers, any open hearing or conference which the Commission may hold within the State.

FOREWORD

STATEMENT OF THE HONORABLE KENNETH CURTIS, GOVERNOR OF MAINE, TO THE MAINE ADVISORY COMMITTEE TO THE U. S. COMMISSION ON CIVIL RIGHTS

I am pleased to take this opportunity to speak on a very vital issue of what governments are doing, and what they aren't doing, for our Maine Indians....I think that after too many years, it has become evident that the concerns of Maine Indians can best be presented and ultimately solved through the self government of the Indians themselves.......So I can foresee, in the near future, when the legislative appropriations will be and should be made directly to the tribal governments. I have also recently recommended to the 106th Legislature, now in session, that speaking privileges be restored to Indian Representatives in the Maine House, and I think that with John Stevens as Commissioner of the Department of Indian Affairs, that Maine Indians have started to gain control, as they should, of their own department. Couple this with House speaking privileges, this would give them the voice they deserve in the affairs of their State -- a voice that Maine also deserves to hear as a welcomed contribution to our efforts to grow and prosper as a State and as a people.

As you know, the State programs that are now being administered by the Department of Indian Affairs include, and rightly so, assistance to the needy, housing and health services and water and sewage projects. But all of these services because of an initial practice which gradually became tradition here in Maine, are pretty much restricted to the Indians who live on the reservation. Meanwhile, Maine Indians who do not reside on the reservations are actually deprived of these services....I think the appalling social conditions which are faced by many Indians living away from the reservations should be a matter of principal concern for the next few years. We have asked the 106th Legislature to create and fund a special office for off-reservation Indians. This office would become part of the Department of Indian Affairs. The office would then move to ensure that off-reservation Indians were aware of available governmental assistance and were aided in applying for benefits to which they are entitled.

But I think even the best efforts of State Government will not provide Maine Indians with treatment equal to that extended to perhaps Indians in other parts of the country. We all know that many Eastern Indians have long been excluded from the various benefits which were provided by the Federal Bureau of Indian Affairs. A major factor I see in improving the lot of Indians in this State would be to have official recognition by the Federal Government. So I would also like to strongly endorse the efforts to gain such recognition and I urge this Committee to make such a recommendation in its report to the United States Commission on Civil Rights.

There is no question that the availability of more federal benefits to be coupled with State aid and other agencies available would not only mean a greater sharing of the cost of Indian services, but a broadening of Indian programs themselves. I do know that Senator Muskie has presented legislation in Washington to accomplish this.

At the same time litigation which was filed by the Passamaquoddys seeks to have the Department of the Interior take legal action against Maine for alleged treaty violations and consequently force the Federal Government into official recognition and I'm very pleased to see that unanimous support has existed in the Congressional delegation within the State because we believe this should be done. We believe this legal determination should be made. It's going to clear the way to answer a lot more questions in the future.

Whatever the outcome of these various steps, I'd just like to say again it is the intention of my administration to continue to work to guarantee that the Indians of Maine have equal access to the quality of life to which all Maine people aspire, but until that access is fully opened and free of obstructions, there is no question that the "trail of tears" will go on and its specter will haunt us, and Maine and the nation will have failed to fulfill their just obligations to the Indians of this state.*

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*February 8, 1973.

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INTRODUCTION

There are approximately 3,000 Indians living in Maine. All four tribes--Maliseet, Micmac, Passamaquoddy, and Penobscot--are of the Algonkian linguistic stock, they originally belonged to the Wabanaki Confederacy, and they are culturally homogeneous.[1]

The majority of the Indian population is located in northeastern Maine, above and around the 45th parallel, with the greatest numbers in Aroostook, Penobscot, and Washington Counties. Maine Indians have retained much of their culture, language, and government, and as this report will demonstrate, are aggressively seeking to redress the injustices of the past.

The Indians in Maine are Native Americans, their ancestors considered themselves one community, and today they comprise a distinct people. They have weathered the ridicule and racial discrimination of surrounding non-Indian communities. They have withstood long-standing governmental policies to separate them from other Indians in other parts of the continent, to erode their political and cultural ties, and to place them in categories such as "on-reservation" and "off-reservation" for administrative convenience. The attitudes of the dominant culture might have had a divisive effect on the Indians of Maine had they not been determined to maintain their identity.[2] This is important to keep in mind as this report outlines some of the dilemmas faced by Maine Indians today.

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[1] For general background on Maine Indian history, the Maine Advisory Committee referred to the following: Andrea Bear, "Malisite, Passamaquoddy Ethnohistory," Colby College Honors Thesis, 1966; Gregory Buesing, "Maliseet and Micmac Rights and Treaties in the United States," Association of Aroostook Indians, Inc., Houlton, Me., 1973; J.D. Prince, "Passamaquoddy Texts," Journal of the American Ethnographic Society, Vol. 10, 1921; Frank G. Speck, "Eastern Algonkian Wabanaki Confederacy," American Anthropologist, Vol. 17, 1915; R. Wallis and W. Wallis, The Micmac Indians of Eastern Canada, 1955.

The Maine Advisory Committee spent more than a year reviewing statements, relevant documents and reports from the staff of the U. S. Commission on Civil Rights, and participating in a 2-day public hearing that it held in Bangor, February 1973.[3]

In view of the urgency of the conditions confronting Indians in Maine, the Advisory Committee in May 1973 released its preliminary findings and recommendations which received wide distribution throughout the State.[4]

Several of these recommendations have been put into effect, in whole or in part: an Office of Off-Reservation Indians has been established in the Department of Indian Affairs; the budget of the department was increased, though it is still not adequate; and an Indian Police Department has been established, headed by an Indian.

However, much remains to be done. The Maine Advisory Committee pledges to work diligently at the Federal, State, and local levels for the recommendations of this report. In this endeavor, we call upon all citizens of Maine to join us.

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2. Andrea Bear, "Passamaquoddy Indian Conditions," Preliminary Report to the Maine Advisory Committee, U.S. Commission on Civil Rights, 1972, Commission files.

3. Official transcript of the Maine Advisory Committee's open meeting in Bangor, Me., Feb. 7-8, 1973 (hereafter cited as Bangor Transcript). Available in files of U.S. Commission on Civil Rights.

4. Federal and State Services and the Maine Indian, Preliminary Findings and Recommendations, Interim Report of the Maine Advisory Committee, December 1973. (second printing)

PART ONE

POLICY AND LAW

American Indians hold a special place in our society. While they possess all the rights of citizens, they also have a unique status as Indians. Their status is grounded in aboriginal claims and tribal sovereignty dating back before the European migration to North America. It is guaranteed by the U.S. Constitution and Federal statutes, and in Maine, by the State constitution and statutes.[5] In a sense, North American Indians have more rights under the law than other citizens. It is a great national irony that their rights both as citizens and as Indians have been and continue to be ignored.

The dilemma of Maine Indians is worse than that of many other Indians, because even though Maine Indians experience problems identical to those of other Indians, the Federal Government has systematically denied Maine Indians the protection and services which it provides other Indians.[6] State services to Maine Indians are inadequate and applied unevenly. Consequently, they are left to struggle with others for non-Indian programs which are limited.

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[5] See generally, State of Maine: A Compilation of Laws Pertaining to Indians, Maine Rev. Stats. 1964, as amended through 1973, prepared by the Maine State Department of Indian Affairs, Augusta, Me., January 1974.

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6. "Indian Eligibility for Bureau Services," Report of the (Ernest) Stevens Committee, Bureau of Indian Affairs, U.S. Department of the Interior, 1972, in Commission files. This report concludes, at p. 39: "The 13,000 Indians who live on so-called 'state reservations,' have long been improperly denied federal Indian services and protection. These denials have resulted in large part from oversight by the BIA, which shifted its attention to the Western frontier after the Removal Era. Under the Indian Non-Intercourse Act of 1790 (now codified at 25 U.S.C. 177) these reservation lands are no less entitled to Federal status than their western counterparts, and their inhabitants are equally entitled to BIA services..."

I. SELF DETERMINATION

Maine Indians have a keen awareness of the complexities of their dilemma and a strong sense of self-determination. Tribal members who testified at the Maine Advisory Committee's hearing described their people's long struggle for tribal autonomy and self-determination.

Richard Hamilton, the Penobscot director of the Indian Island Operation Mainstream, said:

> The Passamaquoddy, Micmac, Maliseet, and the Penobscot Nations have existed as an ethnic entity for many centuries. Nine-tenths of that time we controlled our own destiny and asked favors of no one. The remaining one-tenth of this time has seen continual erosion of our sovereignty until it has reached its present level.
>
> Little needs to be stated to outline the present situation....the high school dropout rate is 70 percent, and the standard of living is way below the national level.
>
> Since the Anglo-European invasion, Maine Indians have been subjected to continuous and unremitting social and economic injustices. In our present enlightened age everyone deplores the 'plight' of the Indians. Yet no non-Indian has had significant success in improving the record. Short of termination, no one sees an end to the present social problems.
>
> ...social justice will not come to a powerless and impoverished group. Welfare or general assistance is of little permanent value. They do not provide individuals with the means to make their own way in the world. However, through the eyes of an economist, we can see a sound future. Through economic progress, the Maine Indian can be independent again.....[7]

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[7] Bangor Transcript, Feb. 8, 1973, pp. 319-321.

Wayne Newell, the Passamaquoddy director of the Wabanaki bilingual program at Indian Township, further explained Indian awareness:

> ...we have a very rich history. We have a very rich background. We have a very beautiful country at Indian Township, clean water, clean air. These are assets rather than liabilities. For years the educational system, as well as every other system in the United States and Canada and in the State of Maine, have told us that you've got to move off those reservations because they are bad places to live.
>
> We are awakening our children to the glories and to the great benefits that exist at the reservation. We are looking educationally into the problem of self-image.
>
> When we started the program, we assumed the children had a negative self-image when they came to the school.....But we tested children through many devices that were developed both by us and by some Spanish American language programs in Texas, and we found in conclusion that the children, in fact, have a very high self-image of themselves when they come to school.
>
> They think that being a Passamaquoddy is the greatest thing in the world. They think the language is the greatest thing in the world. They think dancing and listening to the drum is the greatest thing in the world. And what the system does to them, be it on the reservation, be it in Princeton, be it in Houlton, Eastport, Perry, Pleasant Point, wherever it is, the system systematically teaches our children to be ashamed of our background.[8]

Indian testimony emphasized that Indians and non-Indians have different world views, and consequently Indian participation and expertise are vital to form workable programs within

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[8] Bangor Transcript, Feb. 8, 1973, pp. 275-276.

Indian communities throughout the State, both on and off the reservation. Mary Altvater, chairperson of the Pleasant Point Passamaquoddy School Board, testified:

> And another thing we would like the Federal Government to do is to recognize proposals made by the [Indian] school boards, because we have had so many proposals submitted by others for us, and without our knowledge or consent. Maybe our proposals would not be as eloquent or as good; they might not conform to....the rigid standards that they ask, but it would be our proposal and it would be our program, especially for bicultural education.
>
> And I say bicultural and not bilingual, because we feel that the language is important, but the history is just as important because anyone can learn to speak Indian, but if you're not learning in your culture you have no basis to be proud of your heritage.[9]

Unity on these matters exists throughout the Indian community across generational lines. The Advisory Committee heard testimony from leaders who had spent their adult lives fighting for Indian rights. They described their long and tiring struggle against the insensitivity of agencies and the callousness of men in power. Yet there was no evidence that Indian will is flagging. Former Passamaquoddy Tribal Councillor Robert Newell, in expressing the great frustrations of Indian leaders who are more fluent in Indian than in English, described the treatment of a Passamaquoddy Chief who testified before a committee of the Maine State Legislature:

> I understood what he said, and I believe that most of those people also understood what he wanted to say, but they didn't make any attempt to understand, they laughed. I saw these people, I saw two people elected to this legislature, one person nudge another person and sort of smile or laugh at this person who was trying to

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[9] Bangor Transcript, Feb. 8, 1973, pp. 247-248.

> express himself, trying to relate Indian problems to the people.[10]

The Indians of Maine have developed many forceful and articulate spokesmen. Nevertheless, it is clear that Indian voices are not being heard. Mr. Newell charged that "there is a conspiracy existing somewhere between the State agencies and the Federal agencies to keep Indians at a very minimum..."[11]

Many Indian witnesses during the Advisory Committee's hearing complained that the State of Maine has assumed the power to regulate such internal reservation matters as hunting and fishing, inter-Indian land transactions, and taxation.[12] Indian lands within reservations have been sold, leased, or given away by the State.[13] Maine's assumption of governmental power in these areas appears to the Advisory Committee to be in violation of Federal law which prohibits State Governments from interfering in such matters. Although there have been periodic efforts at reform, like the creation of the Department of Indian Affairs, the creation of Indian controlled school boards and housing authorities, the State has never acknowledged any inherent sovereign powers in the tribes.[14]

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10. Ibid., p. 334. Mr. Newell was director, Mainstream program, Peter Dana Point Indian Council at time he testified.

11. Ibid., pp. 330-331.

12. Francis J. O'Toole and Thomas N. Tureen, "State Power and the Passamaquoddy Tribe: 'A Gross National Hypocrisy'?" Maine Law Review, University of Maine School of Law, vol. 23, no. 1, 1971, pp. 10-13.

13. Bear, "Passamaquoddy Indian Conditions," pp. 1-2. The author states that from 1836 to 1951, Maine passed to non-Indian owners 15,000 of an original 30,000 acres ceded to the Passamaquoddys by the Treaty of 1794; 14,800 of the remaining 15,000 acres were then leased by the State, leaving the Indians 200 acres on which to live.

14. O'Toole and Tureen, "State Power," pp. 38-39.

Tribal representatives to the legislature have not been allowed access to their seats on the floor of the State House of Representatives or the right to speak on Indian matters before that body since the 1930's. Attempts to resume this practice have been repeatedly blocked by the majority of the legislature.[15]

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[15] See debate on L.D. 287, introduced by Rep. Kenneth Mills, 106th Maine State Legislature, 1973, regarding a proposed constitutional amendment to provide for Indian representatives to the State legislature.

II. FEDERAL INDIAN SERVICES

In his address to Congress on July 8, 1970, the President proposed a progressive policy for Indian development based on the cornerstone of Indian self-determination:

> It is long past time that the Indian policies of the Federal Government began to recognize and build upon capacities and insights of the Indian people. Both as a matter of justice and as a matter of enlightened social policy, we must begin to act on the basis of what the Indians themselves have long been telling us. The time has come to break decisively with the past and to create the conditions for a new era in which the Indian future is determined by Indian acts and Indian decisions.
>
> ....In my judgment, it should be up to the Indian tribe to determine whether it is willing and able to assume administrative responsibility for a service program which is presently administered by a Federal agency.[16]

The President's speech and legislative proposals, however, did not address the primary problem of Maine Indians with regard to the Federal Government. The primary problem for Maine Indians, however, is not whether they will administer their own programs, but whether they will have any programs at all, for as it now stands, Maine Indians are considered ineligible for the vast bulk of special programs which the Federal Government operates exclusively for Indians.[17]

Receipt of Federal Indian services is of critical importance for both the Indian and non-Indian citizens of Maine. According to an estimate prepared for the Maine Advisory Committee by the National Council on Indian Opportunity (a policy making board within the Office of the Vice President), Maine's share of Federal Indian services through the Bureau of Indian Affairs, Department of the Interior, and the Indian Health Service of the Department of Health, Education, and Welfare, would amount to upwards of $5 million per year. This is five times the amount presently appropriated by the State of Maine in lieu of the Federal funds.[18] Thus, if Maine Indians were to receive Federal funds, they would for the first time have access to sufficient funds to deal with their chronic social and physical problems, and the State would be able to substantially reduce its present outlay.

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[16] Message from the President of the United States to the House of Representatives, House Document No. 91-363, July 8, 1970.

[17] Stevens Committee Report, "Indian Eligibility," pp. 37-39.

Standing between Maine Indians and Federal Indian services is the doctrine of "Federal recognition." The Federal statute under which the bulk of Indian services are appropriated, the Snyder Act, gives the Secretary of the Interior authority to assist Indians "throughout the United States."[19] When Maine's elected officials challenge the denial of these services to Maine's Indians, as they have done regularly (most recently in May 1973 when Governor Curtis led a delegation of Maine Advisory Committee members and tribal leaders to Washington to meet with the President's Special Assistant on Indian Affairs, Bradley Patterson), they are told that Maine Indians are ineligible for Federal Indian funds because they have not been officially "recognized" as Indians by the Federal Government.[20] The denial of Federal services to Maine Indians has been a prime concern of Maine's Congressional delegation. In a letter to the President in June 1973, they argued that the use of "Federal recognition" as an administrative vehicle for denying services to Indians has no basis in law.[21]

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[18] Letter from Daniel McDonald, Assistant Executive Director, National Council on Indian Opportunity, Office of the Vice President, to Hon. Harvey Johnson, Chairman, Maine Advisory Committee, May 1, 1973, in response to questions raised at Bangor hearing. (Bangor Transcript, Feb. 7, 1973, pp. 77-78) The estimate is based on services currently provided by BIA and IHS to Indian populations comparable to Maine's.

[19] 42 Stat. 208, 25 U.S.C.A. § 13 (1921).

[20] Copies of congressional correspondence pertaining to the "recognition" question are included in the Appendix as Exhibits I - IV, courtesy of the office of Hon. Edmund S. Muskie, U.S. Senate.

When asked how the tribes can be recognized, the Federal officials reply that they must either enter into a treaty with the United States, be specifically "recognized" by Congress, or have had a consistent course of dealing with administrative officials of the Federal Government.[22] The Maine officials pointed out that Indians have had contacts with Federal officials before, indeed that the Federal Government funded a school for Maine Indians in the 19th century and Maine Indian students have attended various Federal Indian boarding schools. They were told these contacts were not sufficient. Asked why, if these prior contacts were not enough, Maine Indians cannot now begin establishing the necessary contacts, Federal officials replied that Indians cannot begin having consistent contacts unless they have had them in the past.

The National Council on Indian Opportunity (NCIO), the only Federal Indian Agency which appeared before the Advisory Committee, was created by Executive order of President Lyndon B. Johnson in 1968, and placed within the office of the Vice President. It was given a broad mandate to encourage the full use of Federal programs for Indians, coordinate activities of the various Federal departments as they relate to Indians, evaluate program effectiveness, and recommend new programs. It is composed of eight Indian members and eight Cabinet members. Indian members are chosen nationwide but none represent non-federally recognized tribes nor has NCIO appointed non-federally recognized tribal members to their subcommittees. Thus Maine Indians, as well as nearly all other eastern Indian tribes, have no voice in the development of national Indian policy.[23]

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[21] Letter from the Maine Congressional delegation to the President, June 5, 1973, included in the Appendix as Exhibit III.

[22] See Exhibits II, IV, Appendix.

[23] Bangor Transcript, Feb. 7, 1973, pp. 70-86. The National Council on Indian Opportunity was disbanded June 30, 1974.

III. STATE POLICY AND STATE SERVICES

Since Maine Indians have been denied Federal Indian protection and services they must cope with Maine Indian policy which is both limited and inconsistent. Maine, for instance, was the last State in the Union to grant its Indian population the right to vote. This process was begun in 1954 but not completed until 1967, nearly a half century after the Congress acted to assure Indians that right.[24] However, in 1965 Maine was the first State to create a Department of Indian Affairs.[25]

Maine Indians -- Maliseet, Micmac, Passamaquoddy, and Penobscot -- have a special position in the Maine law through the State Constitution, statutes, and various treaties.[26]

As on the Federal level, the State has developed administrative interpretations as to which Indians are eligible for State Indian services. Two arguments have been developed. One is that Indians whose tribes have treaties with the State are eligible; the other is that only on-reservation Indians may receive services.[27]

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24. See Article II, Section I -- "Elections" -- Constitution of Maine, as amended by the Act of Sept. 21, 1954; also, see Title 21 Sections 1621-1622, Maine Rev. Stats., as amended, setting forth special provisions for Indian Voting Districts. As late as 1967, the Maine Secretary of State held that the 1954 Constitutional amendment gave Indians only the right to vote for representatives to the State Senate, not House. Rep. Kenneth Mills of Eastport is credited with threatening court action to assure full franchise, which occurred in 1968. (Source: Memorandum to file, 8-2-74, by Gregory Buesing, Secretary, Maine Advisory Committee)

25. Created under Chap. 1351, Sec. 4702, Maine Rev. Stats. 1964, as amended (P.L. 65, c. 340).

26. State of Maine: Compilation of Laws Pertaining to Indians.

27. Bangor Transcript, Feb. 7, 1973, pp. 9-31. Testimony of John Stevens, Commissioner, Maine State Department of Indian Affairs, Augusta.

The State recognizes treaty obligations to Passamaquoddys and Penobscots and claims to have fulfilled them. It does not recognize any treaty obligation to Micmacs and Maliseets.[28]

The Micmacs and Maliseets, however, do not have any reservations in Maine although there is some legal question about this since they were connected with the Treaty of 1794 between the Commonwealth of Massachusetts and the Passamaquoddys, a treaty recognized by the now State of Maine.[29] The Micmacs and Maliseets were also historically instrumental in assisting the Americans' claim to all of northern and eastern Maine during the American Revolution, along with the Passamaquoddys and Penobscots. This began a trust relationship with the U. S. Government.[30]

Those Micmacs and the Maliseets who live in Canada, through the Jay Treaty of 1796, have a right to come into the United States and acquire employment without having to register as aliens. They also have full hunting and fishing rights in proportion with other Indians in Maine.[31]

The second criterion for determining eligibility for State Indian services is residence on a reservation. The legislation creating the Department of Indian Affairs makes no distinction between on and off-reservation Indians, but rather mandates the DIA to serve Indians who are members of tribes.[32]

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[28] Buesing, "Maliseet and Micmac Rights," pp. 22-25.

[29] Treaty with the Passamaquoddy Tribe of Indians, by the Commonwealth of Massachusetts, Sept. 29, 1794, in VIII Maine Historical Society, Documentary History of the State of Maine 98-102 (2d ser. 1902).

[30] Buesing, "Maliseet and Micmac Rights," pp. 22-25.

[31] Ibid.

[32] Ch. 1351, Sec. 4702 M.R.S.

However, Maine's Department of Indian Affairs provides services only to Passamaquoddys and Penobscots residing on reservations. This may be in conflict with the legislation which created that agency.

The definition of an Indian -- a person of at least one quarter Indian blood -- is provided by another statute.[33] The term "tribe" however, is undefined. During the Advisory Committee's hearing, the Maine attorney general's office promised to provide a clarification of this term. The promise was later rescinded by the attorney general who stated that the issue was pending in litigation.[34] The Advisory Committee was unable to discover any pending litigation which directly dealt with this issue.

In 1968 the Governor's Task Force on Human Rights recommended that the statutes on Maine Indians be clarified and interpreted. This has not been done. As a result, many legal matters remain unsettled, and State legislators opposed to Indian legislation invoke the term "unconstitutional" to defeat bills which might otherwise have chance of passage.

The Advisory Committee found numerous examples of the inconsistent nature of the State's policy for providing Indian services:

> Of the four Maine Tribes -- Maliseet, Micmac, Passamaquoddy, and Penobscot -- only members of the latter two who live on-reservation receive health and welfare services from the State Department of Indians Affairs. Off-reservation Passamaquoddys and Penobscots do not.

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[33] Ch. 1351, Sec. 4701 M.R.S.

[34] Bangor Transcript, Feb. 8, 1973, p. 142 P.J. Perrino, Assistant Attorney General, Augusta, stated "...I would be more than happy to do the research and render an official opinion as to what a tribe is, rather than to quote something off the top of my head..." By letter of April 19, 1973 from Jon Lund, Attorney General, Maine, to Harriet H. Price, consultant to the U.S. Commission on Civil Rights, the agreement to render the opinion was postponed indefinitely.

> The State will pay the transportation and tuition for Indians living on the reservation to attend schools off-reservation. However, the State will not provide similar services to off-reservation children to attend reservation schools.[35]

> Indian women married to white men and living on the reservation cannot receive general assistance from the Department of Indian Affairs, although this is not true for an Indian man married to a white woman and living on the reservation.[36]

The Department of Indian Affairs (DIA) is authorized to pay medical and hospital bills for reservation health needs and to pay welfare bills for the unemployed on reservations. The health bills are submitted by doctors and hospitals to the DIA for payment, frequently without documentation. The welfare requests come through "Indian Agents" who are supposed to assess needs.[37] Indians said the process is degrading and ineffective.

Nineteen years ago the Maine State Department of Health and Welfare (DHW), using Indian trust funds, built homes on the Passamaquoddy reservations. These homes have been found to be fire hazards because they have high windows, only one exit, and poor heating facilities. Now the Bureau of Social Welfare of DHW says that the physical condition of these Indian homes poses an obstacle to licensing them for foster care.[38] When it comes to housing construction and finance, the Passamaquoddy Indians need permission from the State Governor to lease their own land to their own Tribal Housing Authority to build low income housing on the reservation.[39] Similarly, because of the State's claim to ownership of reservation land, the great number of Indian veterans who have volunteered for military service are denied housing loans by the Veterans Administration.[40]

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[35] Bangor Transcript, Feb. 7, 1973, pp. 256-262, Testimony of Robert Gerardi, Maine Department of Education and Cultural Services (DECS), and Marion Bagley, Chairwoman, Maine Indian Educational Advisory Committee.

[36] Bangor Transcript, Stevens testimony, p. 14. See also, testimony of Robert Wyllie, Director, Maine Bureau of Social Welfare, Bangor Transcript, Feb. 7, 1973, p. 229. Mr. Wyllie indicated that general assistance from his bureau would be provided to mixed couples living on Passamaquoddy or Penobscot reservations.

[37] Bangor Transcript, Feb. 7, 1973, Stevens testimony, pp. 9-31.

The education of Indian children living on reservations is under a Supervisor of Indian Education in Maine's Department of Education and Cultural Services (DECS). Off-reservation Indians have no advocate nor do they receive direct services from DECS, although there are Federal monies designed to serve off-reservation Indians through State agencies, such as Title I funds for migrant programs provided by the Elementary and Secondary Education Act of 1965.[41]

John Stevens, Commissioner of the Department of Indian Affairs and an Indian himself, told the Advisory Committee that he viewed the DIA's role as one of advocacy for all

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[38] Bangor Transcript, Feb. 7, 1973, p. 228. Testimony of Robert Wyllie, Director, Maine Bureau of Social Welfare. See also the Legislative Record, Maine House of Representatives, May 18, 1971, p. 2765, remarks of Rep. Doyle on L.D. 515 and H.P. 402 regarding guaranteed loans for Indian housing: "... The housing that was built on the Pleasant Point reservation, under the direction of DHW, was built with Indian money, not State money. These particular houses do not meet the fire standards of the state at the present time. In fact there was a severe tragedy in which several people died in one of those houses this year."

[39] Chap. 1352, Sec. 4737, Maine Rev. Stats., 1964, as amended.

[40] Bangor Transcript, Feb. 8, 1973, p. 34. Testimony of John D. Bunger, Assistant Director, U.S. Veterans Administration Office, Togus, Me.

[41] Ibid., pp. 256-262. See also statement of Meredith Ring, Supervisor, Maine Indian Education, Augusta, Bangor Transcript, Feb. 7, 1973, p. 262.

Indians in Maine, and that he believed the State should make direct grants to the tribal governments who desire them, so they could use the appropriations more effectively.[42]

With a yearly budget of $500,000, the DIA is able to provide only minimal health and welfare services. Since its inception, the DIA has had an annual deficit of $100,000. With increased unemployment among Indians, however, the DIA is finding its role in health and welfare increasingly difficult to fulfill.[43]

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[42] Bangor Transcript, Feb. 7, 1973, pp. 18,31.

[43] Ibid.

IV. STATE OF MAINE IN CONFLICT

A network of interconnected legal problems surrounds the Maine Indians' determination to receive Federal Indian services and to achieve their rights as Indians. These problems arise from the complexity of the relationship which exists between the Indians and the State and Federal governments, and is further complicated by aboriginal land claims in which the Indians are seeking damages for millions of acres of land allegedly taken from the tribes by the State with little or no compensation. The Federal relationship has been outlined in Section II. At the heart of the Indians' problems with the State of Maine lies a conflict in the State's perception of its responsibilities toward the Indians and of its own best interests.

The Indians' land claim is based on the premise that they are entitled to the protection of the Indian Trade and Intercourse Acts, Federal laws which since 1790 have outlawed any transactions involving Indian land which are not consented to by the Federal Government.[44] The Federal Government has frequently brought suit against State governments to get land or money damages for tribes which have lost land in violation of the Trade and Intercourse Acts.[45]

The Passamaquoddy Tribe had asked Louis Bruce, former Commissioner of the U. S. Bureau of Indian Affairs, to recommend that the U. S. Department of Justice sue Maine on the tribe's behalf. Commissioner Bruce agreed with the tribe and recommended that the Justice Department bring action, but was overruled by his superiors at the U. S. Department of the Interior. As in the case of the Snyder Act, these officials argued that the Trade and Intercourse Act is not applicable, and the government, therefore, has no duty to protect Maine Indians because they have not been

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[44] Trade and Intercourse Act of 1790, ch. 33 § 4, 1 Stat 138; revised by the Act of Mar. 1, 1793, ch. 19, § 8, 1 Stat 330-31; recodified under the Act of June 30, 1834 as ch. 161 § 12, 4 Stat 730; currently codified at 25 U.S.C. § 177 (1964). (Commonly known as the Non-Intercourse Act)

[45] O'Toole and Tureen, "State Power," pp. 28-30.

"recognized" by Congress in a treaty of statute.[46]

The Passamaquoddys then filed suit against the Federal officials involved (Passamaquoddy v Morton) in which, among other things, they asked the court to declare that "Federal recognition" is an invalid basis for denying them protection of their land under the Non-Intercourse Act.[47]

By way of preliminary relief, the U.S. District Court for Maine ordered the Federal Government to file suit against the State on behalf of the tribe before the running of a Federal statute of limitations barred the action. This case is presently on file, and in it the Federal Government seeks damages from the State on behalf of the Passamaquoddy Tribe. Shortly before the statute of limitations was due to run, the Federal Government voluntarily filed an additional suit against the State on behalf of the Penobscot Tribe.[48]

By order of the court, the State of Maine was not obliged to take any action with regard to the two suits which the Federal Government had filed until the underlying recognition question was answered in Passamaquoddy v Morton.[49] The Maine attorney general, however, apparently decided that it was his duty to protect the State from the Indians' claims in any way that he could (even though he also has a discretional statutory duty to represent the Indians),[50] and he intervened in the Passamaquoddy litigation on the side of the Federal Government, arguing that the absence of "recognition" was a valid basis for the refusal of the Federal officials to honor the tribe's request for a suit against Maine.[51] In so doing, the attorney general has nonetheless, and perhaps inevitably, placed his office in conflict with other State offices, notably that of the Governor and with the Congressional delegation, which have been arguing that the "recognition" argument is not a valid basis for denying Federal services.[52] Moreover, since the Secretary of the Interior has indicated that he will consider Maine Indians eligible for Federal Indian services if the Indians obtain a favorable ruling on recognition in the Passamaquoddy litigation,[53] the State appears to be in a no-win situation: if the attorney general should succeed in helping the Federal Government win, or even delay losing on the recognition issue, his action will at the same time effectively prevent or delay Maine Indians from receiving Federal Indian services and the State from reducing its services outlay.

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[46] Memorandum from Thomas N. Tureen, Esq., Calais, Me., to Harriet H. Price, consultant, U.S. Commission on Civil Rights, Commission files.

[47] Ibid. Full title of the case is Joint Tribal Council of the Passamaquoddy Tribe, et al. v. Rogers C.B. Morton, et al, Civil Action No. 1960, U.S. District Court, Div. of Maine, Northern Div., filed June 2, 1972. Brief in Commission files.

[48] The Federal District Court Order was filed June 23, 1972. Subsequent Federal suits filed were U.S. v. Maine, Civil Action No. 1966 (D.C. Maine,Northern Div., June 29, 1972) on behalf of the Passamaquoddy Tribe, and U.S. v. Maine, Civil Action No. 1970 (D.C. Maine, Northern Div., July 17, 1972) on behalf of the Penobscot Tribe.

[49] The stay was ordered on July 26, 1972,pending further order of the court.

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50. Pursuant to Ch. 1351 Section 4709 Maine Rev. Stats., 1964, as amended.

51. Petition for intervention granted Jan. 17, 1973.

52. Letter to the President from the Maine Congressional Delegation, (Exhibit III in Appendix).

53. Based on letter from Deputy Solicitor, Office of the Secretary of the Interior, to Hon. Edmund S. Muskie, U.S. Senate, Apr. 2, 1973, in which the Department stated that the issue of eligibility turned on the litigation. (Exhibit II in Appendix).

V. CONCLUSIONS AND RECOMMENDATIONS

1. The Maine Advisory Committee concludes that Federal Indian services are essential to the future growth and well-being of Maine Indians. Their continued denial is an invidious discrimination against Maine Indians and a disproportionate burden on Maine taxpayers. The Advisory Committee further concludes that the only legal impediment to their fair share of Federal services is the Federal Government's "recognition" requirement, and that the Secretary of the Interior will consider Maine Indians eligible for Federal Indian services if they establish that "recognition" is not a prerequisite for Federal protection in their land claims case. Realizing that the Maine attorney general has intervened on the side of the Federal Government in the land claims case in the exercise of his obligation to the people of the State of Maine, but also realizing the potential cost of possible delays, the Advisory Committee accordingly recommends:

> That if the Indians are successful in obtaining a favorable decision from the U.S. District Court for Maine on the recognition issue in their present litigation against the Secretary of the Interior, that the attorney general not take appeal of such a decision, and join with the Maine Advisory Committee in vigorously pursuing Federal services for Maine Indians.
>
> That the Secretary, U.S. Department of the Interior, take every administrative and budgetary action possible to assure Federal Indian protection and services to the four tribes of Maine; and
>
> That the Secretary, U. S. Department of Health, Education, and Welfare, take every administrative and budgetary action possible to extend services of the Indian Health Services to the four tribes of Maine.

2. The Advisory Committee concludes that the recommendations of the Governor's Task Force on Human Rights in 1968 have not been implemented in regard to clarifying and interpreting statutes on Maine Indians, and as a result Maine Indians are hampered in lawfully exercising rights under our State Constitution and laws, and accordingly recommends:

> That the Governor take appropriate steps to carry out the 1968 recommendations of the Task Force on this point.

3. The Advisory Committee concludes that half of the Indians in Maine are not receiving State Indian services because they live off the reservations. Yet, the Committee found nothing in the statutes that created the Department of Indian Affairs that limits its services on the basis of residency. Therefore, the Advisory Committee recommends:

> That Maine develop an integrated program of services for members of the four tribes, regardless of residency on or off the reservations, and that the budget of the Maine Department of Indian Affairs be annually adjusted on the basis of need, taking both population growth and inflation into account.
>
> That any efforts to acquire Federal Indian services be made on behalf of all Maine Indians.

4. The Advisory Committee concludes that the inherent right of Indian self-determination and tribal sovereignty is not being recognized by all governmental bodies. The Advisory Committee recommends:

> That, as a matter of basic principle, both State and Federal governments reexamine their policies toward Native Americans in Maine and elsewhere, and affirm the inherent right of Indian self-determination and tribal sovereignty.

PART TWO

SERVICES AS CITIZENS

Although Federal Indian services are denied to all Maine Indians and State Indian services are denied to off-reservation Indians, they are eligible, as citizens, for the various categorical programs sponsored by the Federal and State governments. These include programs in the areas of economic development, housing, health, education, foster care, welfare, and law enforcement.

There exists a wide spectrum of attitudes towards Maine Indians in the agencies that administer these programs, ranging from a sincere interest and commitment to a grave insensitivity. Some agencies, for instance, did not appear before the Maine Advisory Committee's hearing or respond to the Advisory Committee's requests for information. It seems evident that as long as Maine Indians are denied Federal recognition they will be dependent upon the good will of Federal and State administrators and their staffs for assistance. Generally, services to the low-income populace are far less secure than those of recognized Indian communities.

Maine's Congressional Delegation and Governor are continually dealing with Federal agencies to insure that funding to Maine Indians is not arbitrarily cut off. For instance, when it appeared that Economic Development Administration (EDA) monies for Indian water and sewer projects would be transferred to the

BIA (which refuses to serve Maine Indians), the Governor and the Congressional Delegation could see, in effect, that this would halt all development. Frequently Federal services provide the major employment on a reservation. With a 65 percent unemployment rate among Maine Indians, the removal of Federal services would send them into near total unemployment.

Each of the federally funded programs has an advisory board or committee, and each State agency has developed State and local plans for the use of its funds. There are too many agencies, plans, and committees for Maine Indians to participate effectively in all of them. [The Maine Advisory Committee was told of instances when Indian communities were used by local non-Indian agencies to acquire funding without the knowledge of those communities.[54] In other instances, witnesses said Indians were simply not made aware of potential funding sources.]

The Federal Regional Council (FRC) of Region I has been working on these problems of cooperation and coordination since January 1972 when it created an Indian Working Group. Richard Putnam, chairman of the Indian Working Group, presented to the Advisory Committee a full review of the FRC's objectives, its activities to date, and a proposed outline to facilitate full participation by Indians in New England in federally funded programs.[55]

The FRC was established by the President in 1971 and is a composite group consisting of the regional directors of the Department of Health, Education, and Welfare (DHEW), Housing and Urban Development (HUD), Department of Labor (DOL), Office of Economic Opportunity (OEO), and the regional representatives of the Secretary of Transportation. In Region I, FRC membership has been expanded to include the New England Regional

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[54] Bangor Transcript, Feb. 7, 1973, Stevens testimony, p. 16.

[55] Ibid., pp. 41-59.

Commission, the Law Enforcement Assistance Administration (LEAA), and the Environmental Protection Agency (EPA).[56]

Mr. Putnam explained the origins and objectives of the Indian Working Group:

> In early 1972 the FRC began to explore the concept of coordinating federally funded Indian programs. The first meeting on the subject was held on January 13, 1972, and was comprised solely of Federal representatives. The second meeting held on March 3, 1972, included both Federal and Indian representatives. This group prepared a listing of New England Indian groups and summary of Federal programs impacting primarily on these groups. Additionally, the group recommended the creation of Region I, the FRC sponsored Indian Task Force...
>
> Specifically, the objectives were: (1) to coordinate Federal programs directly affecting Indian groups, and to facilitate the exchange of basic data concerning Indian problems; and (2) to provide a clearinghouse, an in-house clearinghouse mechanism to insure that proposals for funding or technical assistance for Indian groups receive coordinated review...
>
> The FRC Indian Working Group, in reviewing applications and grants found that the funding agencies, Federal agencies, needed to be more cognizant in culture, Indian culture and Indian programs, in order to deal more effectively with Indian grantees. That group also identified a need to develop a better review mechanism, review of proposals, applications to insure Indian participation in reviewing applications and grants affecting Indians. Further consideration is also being given for providing assistance to Indian

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[56] Bangor Transcript, Feb. 7. 1973, pp. 41-42.

> organizations regarding the present changes in categorically funded Federal programs to take effect in the fiscal year 1974.[57]

Since the Advisory Committee's hearing, the FRC has established an Indian Task Force, which carries more authority than a Working Group, and has hired a Maine Indian to act as coordinator for Indian affairs in Region I.[58] Although this offers the promise of effective Indian input, there is often confusion between the Indians and the various agencies. For example, the Region I Director of DHEW sent a representative to the hearings, and also conveyed a full report on agencies affected by the Advisory Committee's inquiry. The transmittal letter with the report summarizes DHEW Region I's recent awareness of Maine Indian needs:

> We are not yet doing all that we would like to do, but we have increased substantially our Maine Indian programming since my first meeting with Governor Kenneth Curtis and John Stevens about 2 years ago. Each of our agencies has made an earnest effort to help as much as the law and available funds will allow.
>
> Our efforts have been aided immeasurably by the presence in our regional office over the last few months of James Sappier, a Maine Indian on a Ford Fellowship. He has been a worthy ambassador of his people, and we have given him full access to all our program information and our personnel.[59]

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[57] Bangor Transcript, pp. 42-44.

[58] James Sappier, Federal Coordinator, Indian Affairs, Federal Regional Council, JFK Bldg., E-431, Boston, Mass. 02203.

[59] Harold Putnam, Regional Director, Region I, Boston, Mass., to Hon. Harvey Johnson, Chairman, Maine Advisory Committee, Feb. 1, 1973, Commission files.

Despite this, when Maine Indian Affairs Commissioner John Stevens wrote to the Regional Director on a list of crucial areas, Stevens had to wait 2 months for a reply--which promised only a "review" and future meeting.[60] Commissioner Stevens asked help from the Regional Office in obtaining the following:

1. Indian interns for the Department of Indian Affairs to administer and oversee health care services and mental health programs for Maine Indians, and a department coordinator for all health, education, and welfare programs.

2. Public health services for Maine Indians. The U.S. Public Health Service has never made Indian Health Service available to Maine Indians.

3. Indian day care and foster home services so Indian children will not be forced off-reservation to live with non-Indians.

4. The utilization of existing health and medical services to provide a doctor and a dentist for a clinic and home patient service.

5. Recruiting of para-medics, para-professionals, and aides to train and advise Indian people in the absence of doctors.

6. The use of the Board of Governors as recipients of planning grants for comprehensive planning. (DHEW planning areas have never been represented by Penobscot or Passamaquoddy people.)

At the same time, DHEW's Region I Office for Civil Rights reviewed Maine's Department of Health and Welfare and Department of Mental Health and Corrections. The review was concerned that the Department of Indian Affairs might be used by these and other State agencies for avoiding their responsibilities to Maine Indians.[61]

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[60] John Stevens, Commissioner, Maine Department of Indian Affairs, to Harold Putnam, DHEW, Boston, Mass., Dec. 18, 1972. Mr. Putnam's reply, dated Feb. 23,1973, stated, "I do not recall receiving the original and regret whatever caused this delay in replying to you." Commission files.

Many of the Federal agencies have Indian Desks within their organizations, most of which provide information and assist in policy, although several also have funding responsibilities such as those in OEO and EDA.

The Office of Indian Affairs, which is directly responsible to the Secretary of DHEW, was represented by its director, George Clark, at the Advisory Committee's hearing. The Office of Indian Affairs reviews legislation which would affect Indian health, education, and welfare and makes recommendations to the Secretary of DHEW. It also reviews proposed program guidelines and new programs proposed for Indians. [Another function of the office, Mr. Clark said, is to state for the Administration a position on the relationships between Indian tribes and the Federal Government for the "New Federalism."][62]

The Office of Indian Affairs is also in a position to recommend to the Secretary that eastern Indians, including Maine Indians, be adequately represented on advisory boards within DHEW and on State advisory boards which receive DHEW monies for health and other services. Mr. Clark said his office had received proposals from the first conference of the Coalition of Eastern Native Americans and that he was considering them. His office, he said, would also consider recommendations from the Maine Advisory Committee for services to Maine Indians.[63]

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61. John G. Bynoe, Regional Civil Rights Director, Office for Civil Rights, DHEW, in HEW Program Statements for hearing on Federal and State services and the Maine Indian, Feb. 7-8, 1973. Commission files.

62. Bangor Transcript, Feb. 7, 1973, pp. 87-96.

63. Ibid., p. 89.

In general, the Indian Desks assist all Indians, not merely the federally recognized tribes. It appears that the services provided by these Indian Desks are not viewed as specifically within the framework of "Federal Indian Services." However, Maine Indians charge that the Indian Desks are predisposed toward serving BIA-recognized tribes.

The lack of employment of Maine Indians within the framework of both Federal and State agencies demonstrates another barrier to the awareness of Maine Indian problems and programs to meet their needs.

Many problems, several overlapping, are illustrated in the following sections. The Maine Advisory Committee explored in both Federal and State agencies what programs were available for Maine Indians, what programs involved Maine Indians, and if programs were neither available nor involved Indians, why not. The issue of services is complex and frequently interlocking, but the maze must be explored for some guidance out of the dilemma.

I. ECONOMIC AND COMMUNITY DEVELOPMENT

A. Economic Deprivation Among Maine Indians

Throughout its informal, public hearings the Advisory Committee was told of the dire economic conditions of both on-reservation and off-reservation Indians. The extent of economic deprivation among Indians is difficult for citizens to comprehend when compared with the usual criteria for assessing depressed areas.

The unemployment rate among Maine Indians is so high that they form a class unequaled in Labor Department statistics. Among reservation Indians, it is estimated that unemployment is between 60 and 80 percent. It is about 60 percent at the Penobscot Reservation because local shoe factories which have been a source of employment have closed. It has always been about 70 percent at the two Passamaquoddy Reservations. Among off-reservation Indians, approximately 50 percent are unemployed. However, among the 50 percent of Indians who are employed, about half have only seasonal employment. It would be safe to estimate, therefore, that the unemployment rate among Maine Indians is about 65 percent. The sub-employment or under-employment rate is incalculable.[64]

Several Federal programs, which are the major source of employment for Indians, are being phased out and sources of refunding are uncertain. Allen Sockabasin, Governor of Dana Point Passamaquoddy Reservation, told the Advisory Committee that at Indian Township, 61 workers were unemployed in a work force of roughly 120. Of those employed, 6 worked in private industry and 47 were employed on federally funded jobs.[65] On Indian Island, a Penobscot Reservation, 34 Indians worked on federally funded jobs.[66]

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[64] 64. Bangor Transcript, Feb. 7, 1973, p. 7. Staff report, Harriet H. Price, consultant, U.S. Commission on Civil Rights.

[65] 65. Bangor Transcript, Feb. 8, 1973, pp. 206-211, Allen Sockabasin, Governor, Dana Point Passamaquoddy Reservation, Indian Township, Me.

[66] 66. Bangor Transcript, Feb. 8, 1973, p. 210, Nicholas Dow, Chairman, Penobscot Tribal Council, Indian Island, Me.

Because of the restructuring of Federal agencies and cutbacks in domestic aid programs, the future is in doubt for a number of Federal programs which have benefitted Maine Indians.[67] Indians testified that they had benefitted from Federal programs, and expressed concern for their future if these programs are eliminated or transferred to other agencies.[68] They also alleged that they are denied employment because they are Indian, particularly by business and industry employers in the areas of their residence, some of whom may have Federal contracts which require nondiscrimination.[69]

The Advisory Committee was told that Indians have had almost no success in obtaining jobs in State agencies, even in areas where they make up a significant percentage of the population; nor were they represented in those occupations which require only minimal qualifications.[70]

With the possible exception of the Maine Department of Mental Health and Corrections, Indians make up less than one-tenth of 1 percent of State employment. The Maine State Personnel Board has not developed affirmative measures to recruit and hire Indians, and thereby has contributed to the critical employment problems facing Indians.[71]

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67. Bangor Transcript, Feb. 8, 1973, pp. 116-118, Phillip H. Bartram, Economic Development Administration, U.S. Dept. of Commerce, Augusta, Me.

68. Ibid., Feb. 8, 1973, pp. 198-200, Eugene Francis, Governor, Pleasant Point Passamaquoddy Reservation, Perry, Me.

69. Ibid., p. 343, Sappier testimony.

70. Bangor Transcript, Feb. 7, 1973, p. 16.

71. Based on surveys undertaken by the Maine Advisory Committee in its study of State employment. The Governor's Executive Order 24 (which supersedes Executive Order 11 in force at the time of the Feb. 1973 hearings) requires State agencies to maintain affirmative action programs designed to "increase the numbers of minorities and women at all levels and in all segments of the work force where imbalances exist." (Article I, E.O. 24 FY 73-74, Mar. 20, 1974).

In questioning Federal agencies on their employment practices in relation to Indians, the Advisory Committee found, with the exception of some Indian Desk directors, that Federal agencies employed few Indians. Among the Indians who were employed as Indian Specialists, only one was from a non-federally recognized tribe east of the Mississippi.

B. Indian Testimony on Community Development

Richard Hamilton, director of the Penobscot Mainstream program told the Advisory Committee, "Since the Anglo-European invasion, Maine Indians have been subjected to continuous and unremitting social and economic injustices".[72] To compensate for some of these injustices, and because the established community action agencies were not meeting the needs of Indians, the Passamaquoddy Tribal Council, the Penobscot Indian Corporation, and the Association of Aroostook Indians have sponsored their own community action programs. These organizations have been responsible for most of the economic and community development that has occurred to date among Maine Indians. Representatives of the various Indian community action efforts described for the Advisory Committee some of the problems they have encountered and some of the problems they foresee.

Eugene Francis, Passamaquoddy Governor and co-director of a Limited Purpose Agency, told the Advisory Committee of his concern over the dismantling of OEO:

> First of all, I would like to talk about OEO funds that are being discontinued for the State of Maine...Now this money which is being divided to HEW, I'm just wondering if the Indian Desk of HEW in Washington, D.C. will have control of this money, and if so, ...the non-Federal Indians will not benefit from this money.
>
> ...after OEO funds have been discontinued, what are the Tribal leaders going to do? Like for my part of it, I benefit by getting paid under OEO and also handling two jobs, as Tribal Governor (and) as the Co-Director of the Limited Purpose Agency.[73]

Robert Newell, director of the Mainstream program at Indian Township, said that his program was helpful, but the real need was for trained Indian leaders:

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[72] Bangor Transcript, Feb. 8, 1973, p. 320.

[73] Bangor Transcript, Feb. 8, 1973, p. 198.

> ...I think that programs such as Mainstream are beneficial to the tribes, but I don't think they offer solutions. I think that programs such as Mainstream, CAP Communitv Action Programs, and some of the programs are just mainly items for agencies that just cover the true problems that exist. And I feel that the Indians are being kept at a certain level. If the State agencies and the Federal agencies were really sincere and really dedicated in offering solutions to the so-called Indian problems, why haven't they come across and offered training to the Indian leaders, adequate and competent training to Indian leaders?[74]

Ruben Cleaves, director of the Mainstream program at Pleasant Point, saw the problem essentially in terms of self-determination for Indians:

> I define community development as a need. Maine Indian people desperately need more federally funded, State funded Indian programs, more technical assistance, and most of all freedom to develop Indian culture. An Indian should have the right to define his identity in school, research Indian history, community development, housing, alcoholism. Social problems that confront the Maine Indians should be conducted by Indian people. Last year the United States Government alone dished out over $10 million to non-Indians to study Indians. Not one single dollar went to an Indian scholar...[75]

James Sappier, a Penobscot and a Ford Fellow engaged in a program to sensitize Federal agencies in Region I to the real needs of Maine Indians, described the problem of over-organization of Indian communities, without any real economic benefits being derived:

> But there is something being done on reservations in that we've got a lot of volunteer members, we have so many committees and commissions and task forces and planning groups...now these [are] non-paying positions in a low-income area...

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[74] Bangor Transcript, Feb. 8, 1973, p. 329.

[75] Ibid., p. 335.

> You have the governing council, housing authorities, school committees, economic development boards, the division of Indian services, human relations services, the board of governors, Save the Children, that's a new one, Penobscot Indian Corporation, 25 board members there. Parish Council, St. Ann's Fidelity, you've got the National Indian organizations and committee membership. You've got census committees, the Vata Council, plus a few more scholarship committees, the Civil Rights Commission members now, other commissions, task forces. You've got alcoholism programs and senior citizens and whatever else.
>
> The thing is, you're still in that low-income area, and you've still got these people not getting paid to be here, that's lost income and wages...[76]

Deanna Francis, a Mainstream employee and a worker in the field of alcoholism, also expressed the opinion that government programs could not be counted on to meet the real needs of Indians. She saw those needs as essentially the necessity for Indians to regain group and individual identity:

> I will first speak about the efforts that have been made by the teenagers at Indian Island who used to drink constantly, and used to take drugs as well. And now these young people have gathered together in a home of an old woman who will be 70 years old June 12... Nobody knows how to make baskets. She has taught the youth how to make these baskets, and is teaching the youth the language which they no longer have, and they are learning this language. She has taught the youth to be proud to sing their songs, which they are singing now. She has got the youth not to drink and not to take drugs at all.[77]

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76. Bangor Transcript, Feb. 8, 1973, pp. 341-342.

77. Ibid., pp. 324-325.

Ms. Francis also spoke of the grown-ups, and what had happened to them:

> But how about our grown-ups? And our grown-ups are hard core alcoholics... All these people are well-versed, all these alcoholics are the ones who are well-versed in the Indian songs, these alcoholics are well-versed in legends, these alcoholics know the language so well that if they really speak it, there's so many words you wouldn't understand, for these words aren't used any more...these are people with feeling, and they have feelings of anger, they have feelings of frustration, there are feelings of hate, because of all the dominance that has been put upon these people by the government and by the church...
>
> I don't believe the government is going to give us anything so we can have these halfway houses and make our people strong, because I believe the government is going to keep us down.[78]

Richard Hamilton, referred to previously, described one Indian organization which is attempting to establish its own form of reservation development, the Penobscot Indian Corporation:

> It is a private, non-profit corporation made up of a 25 member cross section of the Penobscot Tribe. It was formed in March 1970 to foster economic growth on the reservation. It will promote, sponsor, and assist Indian-owned and operated small business concerns. The corporation's fundamental policy is that control of Indian development belongs in the hands of Indians. Success will come by combining non-Indian skills and techniques with Indian talents and resources which will generate a productive society through Indian ideals and ideas.[79]

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[78] Bangor Transcript, Feb. 8, 1973, pp. 326-328.

[79] Ibid., p. 323.

The Penobscot Indian Corporation is an excellent example of the determination of Maine Indians to organize in their behalf, to determine their own destiny, and to foster economic development among their people. However, the Penobscot Indian Corporation, like other self-help efforts of Maine Indians, is in desperate need of funds to accomplish its goals.

C. Federal Development Efforts

After a period of approximately 200 years of inactivity, some Federal agencies have begun to take an interest in the economic and community development of Maine Indians. However, in some instances as the funds are dispersed to local agencies, there is a question whether Indian needs are being met.

Phillip H. Bartram, economic development representative for the Economic Development Administration (EDA), told the Advisory Committee of grants made in 1968 and 1970:

> We did some water and sewer business down in the Passamaquoddy (Reservation) at Pleasant Point in 1968 for $254,000. The Princeton (Reservation) water district, and sewer and treatment collection in 1968, $150,000. The Passamaquoddy sewer collection and water distribution in 1970, $413,000. Pleasant Point sewer treatment in 1968 for $30,000, was a supplement, and economic development...and technical assistance studies For $13,000.[80]

Mr. Bartram said that several other grants for 1973 funding were pending in the regional office of EDA in Philadelphia or in Washington:

> ...Pleasant Point, Passamaquoddy Community Building, which we are supplementing along with HUD, $118,000 EDA funds, and another neighborhood facility building for the Penobscot Tribe, for $118,000 (supplementing a HUD grant).[81]

Mr. Bartram told the Advisory Committee that another grant pending for $32,000 would provide for the employment of an economic developer, "an Indian himself," for the

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[80] Bangor Transcript, Feb. 8, 1973, p. 106.

[81] Ibid., p. 107. Both grants were subsequently approved June 30, 1973; construction has been delayed due to legal complications involving land titles, easements, etc. (Phillip H. Bartram, EDA regional office, Augusta, Me., telephone interview, Oct. 15, 1974.)

Passamaquoddy and Penobscot Tribes.[82] Also pending was a supplemental grant of $4,000 for the Penobscot sewage treatment plan, and a supplemental grant of $50,900 for the Penobscot water and sewer plan. The U. S. Department of Housing and Urban Development (HUD) and the Environmental Protection Agency (EPA) were participating in these two projects.[83]

Finally, Mr. Bartram told the Advisory Committee of a pending technical assistance grant to assist a Passamaquoddy Basket Cooperative. This grant, $36,000, would provide a manager for the cooperative. The manager will train Indians at Princeton and Pleasant Point "to take over eventually." The project had been started by the Small Business Administration (SBA), but the agency ran out of funds. Mr. Bartram said:

> We'll have a store set up probably in Calais where they will have an office and store to market their wares... and set up a bookkeeping program that actually supplements them in business.[84]

Director of the Eastern Maine Development District James Coffey explained the relationship of his agency to EDA:

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[82] Ibid., The grant was approved Mar. 26, 1973, and Andrew Akins of the Penobscot Tribe was employed as the economic developer; the grant has been renewed for FY 1975 and increased. (Bartram interview).

[83] Bangor Transcript, Feb. 8, 1973, p. 107. Both grants were awarded June 30, 1973; the Penobscot sewage treatment plant was funded at $66,000 plus $4,000 for engineering studies. Land clearance and title problems are delaying construction, however. (Bartram interview)

[84] Ibid., p. 108. The grant was made June 30, 1973, and the basket cooperative is now operating. Under consideration for new funding at present are several proposals developed by Andrew Akins under the previous EDA grants. These proposals include an arts and crafts museum at Pleasant Point, renovation of a basket cooperative at Princeton, renovation of a campground at Peter Dana Point to induce tourism, a canoe tour among islands on the Penobscot River at Old Town. (Bartram interview)

> ...the role we play in putting these projects together for Federal funding is that we act as broker. We work with the community in preparing the necessary Federal forms in order to secure a grant.[85]

Mr. Coffey explained that his agency, which is funded by EDA and the six counties which it serves on a matching basis (the EDA grant was approximately $53,000), provides staff and technical assistance for the planning of economic development projects in the target area. Each of the six counties, Mr. Coffey explained, has been certified by the U. S. Department of Labor as a depressed area. In the fall of 1972, at the time of the Advisory Committee's hearing, there were no Indians on the board of directors of the Eastern Maine Development District.[86] James Barresi, executive director of the Northern Maine Regional Planning Commission, did not appear before the Committee. He did, however, send copies of the Planning Commission's personnel policies and its certification of compliance with EDA Directive 7.06 (nondiscrimination) which stated:

> No members of minorities, qualified or unqualified, have applied for openings in the past and the Northern Maine Regional Planning Commission has not considered such representation important enough to make a special effort to attract minority applicants.[87]

The programs funded by EDA provide the basic facilities needed to start available development projects on the reservations. However, these projects will not increase significantly the number of jobs on the reservations. Furthermore, since EDA by law cannot fund profit-making enterprises, they will not assist Indians to become entrepreneurs. Since EDA programs are not available to off-reservation Indians, the Association of Aroostook Indians will not benefit from these development projects.

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[85] Ibid., p. 110.

[86] Following the hearings, Allen Sockabasin, an Indian member of the Committee, was appointed to the Board of Directors of the Eastern Maine Development District.

[87] As submitted to the Advisory Committee. Commission files.

Roy Fleischer, chief of Rural Operations in the Boston Regional Office of OEO told the Advisory Committee of assistance rendered to Maine Indians by his agency:

> During the past 12 months the regional office has made a number of grants for work on the behalf of low-income Indians living in Maine. The first grant was to the Passamaquoddy Tribal Council in the amount of $100,000, covering the period September 1, 1972 to August 31, 1973, primarily for economic development planning. Other grants were made to the Penobscot Indian Corporation in the amount of $25,000, the period covering April 1, 1972 through June 30, 1973, for general program development. And the third, the Association of Aroostook Indians in the amount $15,000 covering the period December 1, 1972 through August 31, 1973. The grant is intended to allow the Association to continue its program development work, originally initiated under the provisions of earlier OEO alcoholism grants (which were later transferred to DHEW).[88]

Mr. Fleischer said that all OEO Indian programs in Maine are funded by the Regional Office to the Passamaquoddy Tribal Council, which in turn delegates the funds to both the Penobscot Indian Corporation and the Association of Aroostook Indians. In addition, OEO funds Pine Tree Legal Services which provides legal assistance to Indians in Maine.[89]

In a written statement to the Advisory Committee, Herbert Sperry, director of the Maine Division of Economic Opportunity said:

> This agency...is funded by the Federal Office of Economic Opportunity to provide technical assistance to OEO grantees and other low-income groups. The Division has few programmatic responsibilities and its professional staff are used as technical assistance and program planning resources.

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[88] Bangor Transcript, Feb. 8, 1973, pp. 47-48.

[89] Ibid., p. 48.

> Our assistance to the Passamaquoddy Tribal Council (an OEO grantee) and the Association of Aroostook Indians (a delegate agency of the Passamaquoddy Tribal Council) has included review and comment on grant applications and the assigning of VISTA Volunteers to work with both groups. In addition, volunteers have also been assigned in the past to the Penobscot Reservation at Indian Island.
>
> I would submit that the technical assistance personnel from this agency have been underutilized by all three of the above mentioned groups.[90]

Mr. Fleischer indicated that "Indians living anywhere in the State who are within the OEO guidelines are eligible to participate in programs operated with OEO support by the 13 community action agencies which cover the entire State."[91] Testimony from Indians, however, raised serious questions concerning their participation in and benefits from local community action agencies.

The following exchanged occurred between Indian Advisory Committee member Allen Sockabasin and Henry N. Paradis, representing the Maine Division of Economic Opportunity:

> Mr. Sockabasin: What I'm asking is how much input do the Indian people have, such as in Washington County and Hancock County, (in) the Community Action Program?
>
> Mr. Paradis: I would not be able to answer that, I wouldn't know.[92]

Later another member of the Advisory Committee questioned Harold Higgins, executive director of the Penquis Community Action Program, on the same point:

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[90] Bangor Transcript, Feb. 8, 1973, pp. 46-47. Read to the Advisory Committee by Mr. Sperry's representative, Henry N. Paradis, State Manpower Coordinator.

[91] Ibid., Feb. 8, 1973, p. 48.

[92] Ibid., Feb. 8, 1973, p. 59.

Mr. Buesing: Do you have any Indian employees in your area?

Mr. Higgins: I'm not sure.

Mr. Buesing: Could you find out for us?

Mr. Higgins: Yes. I may not have that information either because I may not know from an application for employment whether that individual is or is not Indian.
...

Mr. Buesing: Are there any reservation or off-reservation Indians on any boards, advisory committees of your agency?

Mr. Higgins: Not to my knowledge...[93]

Representatives of the Aroostook County Community Action Program, in which area members of the Association of Aroostook Indians reside, and the Washington/Hancock Community Action Program, in which area Passamaquoddy Indians reside, did not respond to the Advisory Committee's invitation to participate in the informal hearing nor did they submit a statement.

The Advisory Committee was told that the four Indian tribes in Maine initiated their own limited purpose agencies (which are similar to community action agencies) to receive funds from OEO because they did not have input into local community action agencies and received minimal services from them.

OEO's National Indian Desk in Washington, D.C. did not send a representative to the open hearing, nor submit a statement describing the programs for which Maine Indians may or may not be eligible. Since the future of the Office of Economic Opportunity is in serious question, it is uncertain whether OEO programs for Maine Indians will continue to receive funds.

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[93] Bangor Transcript, Feb. 8, 1973, pp. 63-64.

RECOMMENDATIONS

1. That when OEO funds are transferred to DHEW, the funding of Indian Community Action Programs be continued without interruption.

2. That EDA Indian funds not be transferred to BIA: and, if they are, that Maine Indians continue eligibility for public works and planning grants.

3. That Federal and State laws and policies requiring nondiscrimination in employment be strictly enforced in Maine with respect to both public and private employers.

4. That Federal agencies in Region I request from their Washington headquarters special funds designated for Indian programs and services.

5. That State planning boards and commissions, and advisory committees, in the field of economic development insure that Indians are represented on such bodies.

6. That no Federal, federally assisted or State program for economic and community development, designed in whole or in part for Indians, be carried out without the approval of Indians and the active participation of Indians in the development of the program.

II. HOUSING

A. The Indian Housing Situation

Indian housing throughout the State is generally very poor. Although there is potential for improving housing on-reservation, many Federal and private programs are seriously hampered by the restrictions the State has placed on Indian land titles.[94] Off-reservation there does not appear to be any clear-cut way to improve Indian housing.

George Stevens, Chairman of the Indian Township Housing Authority, told the Advisory Committee:

> As you go to the reservations the houses are substandard fire hazards that are crowded. It's hard for their children to do their homework in a house that's so crowded. There were State houses built about 14 years ago on both (Passamaquoddy) reservations, yet they (the State of Maine) couldn't find a house they could license (for the placement of foster children) and they built the houses themselves 14 years ago.[95]

Few Indian families own their own homes off-reservation, and many have to depend on a tight rental market where prices are often beyond their means. Thomas Battiste, a board member of the Association of Aroostook Indians, stated:

> Housing to us is the most critical problem, and also the most frustrating problem we have. Most of the six hundred to eight hundred Indians that live up there (in Aroostook County) live in substandard housing or live in picker shacks, migrant shacks, no running water, outhouses, the whole bit...Because of

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[94] Stephen Minichuk, Chief Attorney, Togus Office, Veterans Administration, memorandum to loan guaranty officer, Apr. 30, 1971, setting forth VA policy on loans for property on Indian reservations. Commission files.

[95] Bangor Transcript, Feb. 8, 1973, p. 292.

> the substandard conditions, there have been three deaths as a result of the substandard housing. One guy threw some white gas on a wood stove and couldn't get out of there, I guess the door was locked. Another one, a woman, was living in a tent where she had for her cooking area just a fire on the outside of the tent, and the tent caught on fire. She couldn't get out, and her husband was badly burned. It's a common occurrence. You see maybe two families in one of these shacks, 12 or 13 people in one of these shacks, maybe sometimes two rooms. The only heat they have is probably a wood stove, tar paper, that sort of thing, tar paper on the outside.
>
> Just last summer, last fall, I saw that a guy lived in a lean-to up in Mars Hill....He was living right by the dump... The guy's whole life, his possessions were right there in the lean-to, and he didn't have anywhere else to go. There was no house for him, no apartment, he couldn't go anywhere. That was it.[96]

In 1971 Maine's Department of Indian Affairs surveyed the off-reservation Indian population under a grant from the U.S. Department of Housing and Urban Development (HUD). The surveyors reported: "We determined that 33.9 percent of the housing was in the 'good' category, 20.62 percent in the 'fair' category, and a high 45.48 percent in the 'poor' category." In Washington and Aroostook Counties, where about half of the off-reservation Indian population lives, the surveyors found the percentage of poor housing higher than the statewide average. In Washington County, 60 percent of the off-reservation housing was classified as poor; in Aroostook County, 51.04 percent was considered poor; in Penobscot County, where 17.54 percent of the off-reservation Indian population lives, the proportion of housing in the

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96. Bangor Transcript, Feb. 8, 1973, pp. 293-294.

poor category was approximately 43 percent.[97]

The survey described poor housing:

> Poor housing conditions are more easily described because of their lack of most everything. This type of housing usually consists of rundown old houses, old camps, or decrepit apartment buildings. A general description of our classification of these conditions is as follows:
>
> The exterior of the house consists of rough boards or logs. They are sometimes covered with roll asphalt paper or novelty siding. The interior has a crude rough finish with no ceiling tiles, and no cabinets or closet space. The floors are usually soft wood with no covering. Heating is by stoves or even fireplaces. There is either a single cold water faucet or pump by the kitchen sink or no running water at all. Lighting the facility is either done by gas lamps or a single electric light.[98]

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[97] Allen G. Sockabasin and John G. Stone, consultants, "Off-Reservation Indian Survey ME P-74," Maine Department of Indian Affairs (CPA-HUD Special Project No. Maine P-74), Aug. 3, 1971, p. 37. Commission files.

[98] Ibid, p. 36.

B. The Potential for Improving Reservation Housing

Tribal leaders have been trying to improve housing conditions on reservation for many years. Eugene Francis, Governor of the Pleasant Point Passamaquoddy Reservation and a former member of the Pleasant Point Housing Authority, described an attempt to acquire Federal housing funds during the 1950's:

> Health and Welfare built several buildings on the reservation under our own trust funds. And before the Housing Authority was ever created, Health and Welfare was the Department of Indian Affairs at the time, that they were going to try to solicit some money from the Federal Government and they were unsuccessful for the simple reason, to get the Federal funds from the Federal Government, you've got to have a non-profit organization to get those funds and Health and Welfare, I guess, didn't consider this a non-profit organization.[99]

In 1967 after the creation of the Maine Department of Indian Affairs, the State enacted legislation enabling the creation of a housing authority on each reservation. Francis Sappier, member of the Pleasant Point Housing Authority and former coordinator of housing for the Passamaquoddy Tribal Council's Community Action Program, described the progress made at Pleasant Point:

> So we got together with the officials in the State, in Augusta, the Department of Indian Affairs, and they thought that they would try to coordinate a housing authority because we had a Commissioner that used to be the Federal Government projects, and he came from out of State so, and his name was Ed Hinckley. So him and I in turn went to the Governor and we asked him about how to organize a housing authority. He told us, and then we went back to the legislature the following year to create this housing authority. So the people on both reservations, Pleasant Point and Peter Dana Point,

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[99] Bangor Transcript, Feb. 8, 1973, pp. 301-302.

> agreed that they needed a housing authority.... This is how the housing authority got created. And we've had pretty good success so far....
>
> The first thing that we found out was that we had to get water and sewage, so we made applications out for the water and sewage. So we had to write letters all over the State to get these little organizations to support us. So we did that, then we had to get a grant from EDA and FWPCA, that's another two Federal organizations. And that way we got our water and our sewage.
>
> It's been about 4 years that we been working on housing...We got bounced around here and there. Last year I think it was, we finished water and sewage. That took a couple years. There was about a million dollars involved in the two reservations. We worked together, Peter Dana Point and Pleasant Point. There's that gap between us, 50 miles separating us. And coming into the spring, we want to start building...[100]

The results of years of hard work and cooperation between the three reservation housing authorities, the Maine Department of Indian Affairs, HUD and other Federal agencies were well illustrated in the statement of HUD Region I Administrator James J. Barry which was read to the Maine Advisory Committee by Sirrouko Howard, Assistant Regional Administrator:

> Over the past 12 months we have funded housing, water and sewer, and Neighborhood Facilities programs to a total of $4 million on the two Passamaquoddy Reservations located at Indian Township and Pleasant Point and the Penobscot Reservation at Indian Island An additional $600,000 may be forthcoming for the housing programs. The cost breakdown according to location and status of project is as follows:

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[100] Bangor Transcript, Feb. 8, 1973, pp. 298-300.

Passamaquoddy Tribe

Pleasant Point:

(a)	Housing/Mutual Help - home-ownership (45 units to be contructed this spring)	$1.3 million
(b)	Neighborhood Facilities - 75 percent grant	$352,800
(c)	Water and Sewer (To be constructed this spring)	$300,900

Indian Township:

(a)	Housing/Mutual Help - home-ownership (25 units to be constructed this spring)	$827,000
(b)	Water and Sewer - 90 percent grant (To be constructed this spring)	$262,100

Penobscot Tribe:

(a)	Water and Sewer - 90 percent grant (Awaiting EPA approval)	$548,500
(b)	Neighborhood Facility - 75 percent grant	$352,800

In addition a 701 Planning Grant of $6,000 has been awarded to the Penobscot Tribe through the Maine State Planning Commission.[101]

It is important to note that Mr. Barry's letter does not list any new housing starts for the Penobscot Reservation. Erlene Paul, acting director of the Penobscot Housing Authority, told the Advisory Committee, "The Department of Housing and Urban Development has reserved 35 new units and 5 rehab units for us."[102] Edward Bernard of HUD's Manchester area office explained, however, that the President's 18-month moratorium on new housing starts applied to the Penobscots: "The Penobscot tribe has a preliminary contract...you don't have an annual contributions contract, so the freeze covers anything that is not under an annual contributions contract, for all central funded programs."103

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[101] Bangor Transcript, Feb. 8, 1973, pp. 4-5. The prepared statement contains additional details not read into the transcript. Commission files.

[102] Ibid., p. 297.

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103. Bangor Transcript, Feb. 8, 1973, p. 13.

C. The Off-Reservation Housing Dilemma

In his statement to the Maine Advisory Committee, James J. Barry, HUD Region I Administrator, wrote:

> Since most of our programs must be applied for through or with concurrence of the local governing body or through a local housing authority, such independent, off-reservation groups as the Association of Aroostook Indians (AAI) are not eligible for many grants even if they are serving a significant number of Indians. An act of Congress is required to change this.[104]

HUD personnel testifying before the Advisory Committee provided no evidence that HUD had a consistent policy to ensure minority involvement in local housing authorities or their projects. Minority representation on local housing authorities, they stated, is in no way required. When asked what HUD policy was on this matter, specifically in those areas where Indians make up a significant percentage of the population and there is a housing authority, Mr. Bernard stated:

> I think we extend every effort to encourage meetings with the housing authority to obtain minority representation in that case. I just can't think though of an area off-reservation, I just can't think of an area that has a significant number.[105]

Leaving the problems of Indian housing off-reservation to local non-Indian housing authorities, however, has provided no solution to the crisis in off-reservation Indian housing. Of 2,158 conventional housing units and 507 leased housing units subsidized by the U.S. Department of Housing and Urban Development and constructed under local housing authorities, a total of 3 units are occupied by Indians -- two in Bangor and one in Presque Isle. And of 88 local housing authority employees, none are Indians.[106] Mr. Thomas Battiste, who has worked with the Association of Aroostook Indians, attributed the crisis in off-reservation housing partly to insensitive local housing authorities:

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[104] Bangor Transcript, Feb. 8, 1973, p. 6.

[105] Ibid., p. 20.

> But the thing is, why is this situation? We live in 21 separate communities up there, and we have to deal with the local housing authorities, if they do have housing authorities, the majority of these communities do not. And you know it's kind of hard to buck the system again. The attitude of people in charge, it's kind of hard.[107]

The only agency that has made a consistent effort to improve off-reservation Indian housing has been the Association of Aroostook Indians. Mr. Battiste described some of these efforts:

> We started inquiring around and was able to get four dilapidated trailers...from Acadia National Park. These trailers were about 28 by 8, maybe 20 by 8, I guess; they had no windows in them; the doors were banged up; and the purchase orders we got from the Interior Department stated that they were eyesores. But we took them because they are a lot better than the lean-to or any tent. We could have fixed them up, maybe put a stove in. They would have at least kept the water out... The problem we had up at Houlton and at Mars Hill, after we got them up there, there was no land to set them on. We inquired around and tried to find an old back field that we could put these trailers on and nobody would come around and donate the land or anything like that.

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[106] Sirrouko Howard, Assistant Regional Administrator for Housing Management, Region I, HUD, Boston, Mass., to Harvey Johnson, Chairman, Maine Advisory Committee, Apr. 5, 1973. "Local Housing Authorities in the State of Maine," Commission Files.

[107] Bangor Transcript, Feb. 8, 1973, p. 295.

> Finally, we did find a spot...It was a mile, 2 miles back in the woods. It would have been just impossible to live there because winters up there are really a problem.[108]

Mr. Battiste also described the long relationship of the Association of Aroostook Indians with the Maine Housing Authority and with HUD which eventually brought about the awarding of 25 leased-rental units to the town of Houlton. Seven of these units were to be set aside for Indians:

> In Houlton, with our efforts, 3 years of efforts, I guess, that we've been down in Augusta, going back and forth, and hounding the Maine Housing Authority. With the help of HUD in Manchester, they finally got around to granting some low-income housing up in Houlton, which we got a commitment of seven units. But seven is not going to solve the problem there. On the State level, like I said, it took 3 years for them to come across.[109]

After all this effort, Mr. Battiste said, there was still a problem of getting the Houlton Town Council and the Houlton Town Meeting to approve the housing project. At the suggestion of Eben Elwell, then director of the Maine Housing Authority, the Association of Aroostook Indians remained silent about their role in acquiring the housing for the town. The role of selling the idea of the new housing to the town was assigned by Mr. Elwell to the Houlton Regional Development Corporation. Mr. Battiste explained:

> ...We had to take a back seat to get anything. They told us that if the Indians came forth and say they got some housing, the town would automatically say, no, we don't want it. So, you guys stay in the background...(and) we'll convince the town that it's something good.[110]

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108. Bangor Transcript, Feb. 8, 1973, pp. 294-295.

109. Ibid., p. 295.

110. Bangor Transcript, Feb. 8, 1973, p. 314.

After this agreement was made, the Houlton Regional Development Corporation held a series of meetings on Federal housing programs to which town leaders, businessmen, and other citizens were invited. At the first of these, Mr. Battiste continued, it was stated, "because there was a minority, a sizeable minority group in Houlton," the town "had a good chance of getting these monies, and the local development agency in Houlton started to work on it".[111] No allusion, however, was made to Indian involvement in acquiring these units, nor was there any mechanism set up to insure Indian involvement in the execution of the project. Mr. Battiste stated that the allotment of 7 of the 25 units to Indians was guaranteed only by "a verbal agreement."[112]

Although HUD Region I Administrator Barry stated that, "Such independent off-reservation groups as the Association of Aroostook Indians are not eligible for many grants...",[113] the hearings did not conclusively determine whether certain off-reservation groups could be made eligible for these grants on the same basis as on-reservation groups. Mr. Howard and Mr. Bernard were not in agreement whether Federal recognition of off-reservation groups would make a difference in acquiring Federal housing funds; Mr. Howard said "yes;" Mr. Bernard said "no."[114] A series of questions were addressed to Mr. Howard regarding the meaning of the term "Indian colony" as a category eligible for Federal housing funds for Indians, specifically whether such off-reservation groups as the Maliseets and Micmacs in Aroostook County could be considered an "Indian colony." Mr. Howard answered this question in the context of other New England Indian groups in a situation similar to the Maliseets and Micmacs:

> If this agrees with the Bureau of Indian Affairs' interpretation, I don't know. Now let me give you case in point why it's bewildering to me. There are Indians

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[111] Bangor Transcript, Feb. 8, 1973, p. 313.

[112] Ibid., p. 315.

[113] Ibid., p. 6.

[114] Ibid., pp. 52-53.

scattered all over Maine and the rest of the New England States and I don't believe, I honestly don't believe that anyone really knows where all of these colonies and these gatherings and these groups are...

I have to go back to the Narragansett Tribe... The Narragansetts, back in 18 something underwent, or were subject to State law. The State (De) Tribalization Act resulted in some $86,000 being divided up among the recognized remaining tribe members as payment for the land they were on... There is some question as to the validity of that Detribalization Act. And I only mention that because there are many offshoots of all these tribes that have their own colonies, and they thought that when they detribalized that would be the end of their culture, and that would be the end of their mores, and that would be the end of their schools and the churches, That didn't happen at all. They took the land away from them, but they still have their own churches, and still have their own school and they still have their own mores and that perhaps will always be so.

It seems to me that this group and many other groups scattered throughout New England should be recognized. And (there) should be some arrangements where they would be in a position to receive some Federal funds as well as any other colonization that receives funds primarily becuase they own land. That's just a personal observation.[115]

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[115] Bangor Transcript, Feb. 8, 1973, pp. 14-16.

D. Obstacles to Individually Financed Housing on Reservation

Many obstacles stand in the way of individual Indians who wish to build homes on the reservation. George Stevens, Chairman of the Housing Authority at Indian Township, explained that reservation Indians in Maine are denied Veterans Administration loans:

> This goes way back to World War II under the GI Bill of Rights. Our boys went to war, They came back, and they couldn't get the benefits like other boys. This has been a thorn from that time on... Right after World War II, I tried to (get) financing to build a home and I couldn't do it. At that time we could build a home for about $6,000 or $7,000. I went to the bank, I couldn't get any money. Well, they told me to build on, to add on. But how can you do it without any plans, and we can't even get a loan to remodel or build an addition. If you see the course of of the reservation, you could see houses with additions built on, eastside, westside, all around sometimes built on every 2 years. This is what I actually did.... There's no place to build onto now....The boys go to war, fight like other boys and die like other boys, yet we can't get the benefits. 116

Like many Maine Indians who have attempted to improve their own housing situation as individuals Mr. Stevens' way was blocked. Banks will not finance housing construction on Maine reservations. 117 The Veterans Administration will not insure or guarantee any loan for housing purchase or construction on reservations in Maine.118. The Department of Housing and Urban Development will not extend moderate income home ownership or rental programs (Sections 235 and

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116. Bangor Transcript, Feb. 8, 1973, p. 292.

117. Ibid., p. 17, Edward Bernard, HUD.

118. Ibid., p. 34, John D. Bunger, Veterans Administration.

236) to the Maine reservations.[119]

In each case these denials of service are based upon restrictions in Maine State law placed on Indian land. Mr. Bernard stated:

> Another problem we encounter [concerns] some of the funds available such as the moderate income homeownership program or rental program...Banks will not finance on the reservation because of the land situation. Therefore, there is nothing to insure against loss on the reservation.[120]

John Bunger, Assistant Director of the Veterans Administration (VA) Center, Togus, Me., explained that there were 14 VA housing loans to Indians in Maine; 2 of the 15 loans made to non-whites in the State in 1972 were made to Indians.[121] No loans were made on the reservation. Mr. Bunger explained that an eligible Indian may obtain a home loan on the same basis as any other veteran:

> There is, however, one complication--such loans may be processed only when the individual veteran can obtain a fee simple title, a leasehold estate, or a life estate to the property he wishes to acquire. This requirement prevents an Indian veteran from obtaining a loan [to] purchase or construct a home located on either Indian reservation

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[119] Bangor Transcript, Feb. 8, 1973, p. 7, Barry, HUD, "Due to banks' refusal to loan individuals on the reservations monies to construct residences, we provide no mortgage insurance on Section 235 subsidies on reservations." The "235" program provides mortgage insurance to assist lower-income families in purchasing homes; the "236" program provides rental assistance to lower-income families. Authorizing legislation: "235": 12 U.S.C. 1715z, National Housing Act, Sec. 235, as added by the Housing and Urban Development Act of 1968, Sec. 101 (a), Public Law 90-448, 82 Stat. 476, 477; "236" program: 12 U.S.C. 1715z-1, National Housing Act, Sec. 236, as added by the Housing and Urban Development Act of 1968, Sec. 201 (a), Public Law 90-448, 82 Stat. 476, 498.

[120] Bangor Transcript, Feb. 8, 1973, p. 17.

[121] Ibid., p. 34.

> in this State. These reservations were, as you are probably aware, made available by the State of Maine to the tribes for private use only, and consequently, it is not possible for an individual Indian on either reservation to acquire fee simple or other estate to a portion for use as a homestead as required by the law and the VA regulations. It would require a change in State law to overcome this obstacle, and as such, it is a public policy decision, which has been the prerogative of the State of Maine Legislature.[122]

John J. Jackson, Director of the VA Center at Togus, provided the Advisory Committee with a 1971 report on eligibility for loans to purchase realty located on Indian tribal lands. Prepared by Stephen Minichuk, chief attorney of the Togus VA Center,[123] the report substantiated Mr. Bunger's statement with quotations from Maine Supreme Court decisions, Maine attorney generals' opinions, and Maine law, all of which establish "the supremacy of the State."[124]

Once again it was not entirely clear whether Federal recognition of the Maine tribes and reservations would change Maine Indians' status when attempting to acquire bank loans, VA loans, or such HUD programs as Sections 203, 235 and 236.[125]

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[122] Bangor Transcript, Feb. 8, 1973, pp. 34-35.

[123] John J. Jackson, Center Director, U.S. Veterans Administration, Togus, Me., letter to Hon. Harvey Johnson, Chairman, Maine Advisory Committee, Mar. 2, 1973, with attached memorandum. Commission files.

[124] Ibid.

[125] The "203" program provides insured mortgage financing for the construction, purchase, or repair and rehabilitation of one-to-four family homes; 12 U.S.C. 1709.

In his statement to the Maine Advisory Committee, HUD Region I spokesman Sirrouko Howard stated that there are HUD funds available to certain Indians, not available to others, and that Federal recognition could play an important part in getting those funds, but he added that "we are bound by certain legal constraints to develop programs with accepted and recognized tribes, policies, housing authorities, State recognized groups, etc."[126] It is not clear from this statement, however, if these HUD programs were in operation on Federal reservations. Mr. Bernard,also of HUD, was unable to answer whether banks make special provisions regarding Federal reservations, or whether Bureau of Indian Affairs or any other Federal agency would provide extra assistance for moderate-income housing on a Federal reservation.[127] Mr. Bunger stated that VA loans are not available on Federal reservations for the same reason.[128]

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126. Bangor Transcript, Feb. 8, 1973, pp. 14-16.

127. Ibid., pp. 17-18.

128. Ibid., pp. 34-35. "There are no programs administered by the VA which are utilized by Indians elsewhere in the country but which are not operative in the State of Maine."

E. Staffing Limitations at HUD

"In general, the tribes in Maine have been very aggressive and quick to apply for HUD funds," wrote James J. Barry in his statement to the Maine Advisory Committee. He added, "I would like to assure all that the staff in our field offices in Manchester and Bangor are always available to assist the American Indian to serve the needs of his people."[129]

Throughout the housing portion of the informal hearings there were indications that a communications gap, if not a serious limitation of Federal staff, existed in the coordination of housing projects. On several occasions Indian people expressed their frustrations in dealing with HUD and other agencies involved in reservation housing projects. Erlene Paul, coordinator for the Penobscot Housing Authority, stated, "Frankly, I'm sick and tired of being bounced around from organization to organization."[130] Francis Sappier, member of the Pleasant Point Passamaquoddy Housing Authority, made a similar remark, "So that went on and we got bounced around here and there."[131]

Mr. Barry acknowledged this situation in his statement to the Maine Advisory Committee:

> Most government programs require much paperwork which often creates impatience as well as frustration on the part of the Indian people and Federal officials. This is particularly true on small reservations.
>
> Better Federal coordination is needed. The funding situation for Water and Sewer and for the Neighborhood Facility was and is very confused with HUD, EDA, and EPA all contributing. Perhaps a coordinating committee made up of the three agencies would be most helpful.[132]

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[129] Bangor Transcript, Feb. 8, 1973, p. 9.

[130] Ibid., p. 297.

[131] Ibid., p. 300.

[132] Ibid., p. 7.

Several coordinating bodies already exist, yet none cited a specific role they had played in solving some of these "confusing" situations. Both the National Council on Indian Opportunity and the Federal Regional Council's Indian Task Force have such a role.

Mr. Howard suggested that the full-time assignment of one HUD staff person to the Indians of Maine would be of great benefit:

> ...in forthcoming years it's going to be almost mandatory that we assign an individual exclusively to the Indian tribes in Maine to help them and promote them in implementation of a particular program to which they have received approval and has been funded. It is almost impossible for us...in a Federal agency to expect the other initiators out in the field to interpret some of our regulations, when we, with all of our resources, have difficulty in interpreting ourselves. This will be a recommendation to the Regional Administrator.[133]

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[133] Bangor Transcript, Feb. 8, 1973, pp. 7-8.

F. Programmatic Limitations

In his statement to the Maine Advisory Committee, Mr. Barry made two observations about the limitations of HUD programs, not discussed previously, which warrant notice:

> Another obstacle is HUD's inability to provide more than 75 percent grant for a Neighborhood Facility or more than 90 percent grant (in rare cases) of water and sewer facilities. This puts the burden on the tribe to find matching funds. Some tribal funds are limited, and if State appropriations are not adequate, the tribe may have to go without a much needed facility. This is currently the situation with a Neighborhood Facility at Indian Township. Change requires an act of Congress.
>
> In the case of homeownership programs, modernization funds are not available for repairs to homes. If, in the future, it is found that the homebuyers' incomes are too low to allow them to build up and maintain an adequate maintenance reserve fund, it could be difficult for individuals to make major repairs to the structures should they be needed.
>
> A change could be brought about by administratively establishing some type of capital improvement fund to cope with this situation, or by changing modernization guidelines.[134]

Another significant limitation on HUD programs has been caused by uncertainty arising from such factors as the President's 18-month moratorium on new housing starts, plans for governmental reorganization, and HUD's own budget submission to Congress. On several occasions representatives from Federal agencies could not answer questions. For example, the Advisory Committee was unable to elicit precise information about the future of the open space program, the transfer of OEO programs, and the status of Indian and elderly housing grants.[135]

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[134] Bangor Transcript, Feb. 8, 1973, pp. 6-8.

[135] Ibid., pp. 10-13.

RECOMMENDATIONS

1. The moratorium on Indian housing starts should be lifted immediately so that plans to begin housing construction can continue as scheduled on the Penobscot Reservation.

2. Lack of trust land should not be a criteria for denying such independent, off-reservation groups as the Association of Aroostook Indians eligibility for the same type of housing grants made to reservation communities. Tribal groups living in their aboriginal territory--like the Maliseets and Micmacs of Aroostook County--may lack trust land now only because their land was taken from them improperly in the past. In such cases, the Congress should extend by legislation the eligibility for the same housing programs to these groups, for their members, as it does for reservation groups. The case for such treatment is based in the trust relationship between Indians and the Federal Government.

3. Congress should pass legislation to insure the right of Maine reservation Indians to participate in loan programs of the Veterans Administration and the Department of Housing and Urban Development.

4. Region I of the Department of Housing and Urban Development should assign one staff member to work exclusively with the Indians of Maine, on-and off-reservation. This person might have the additional responsibility of coordinating selected housing activities of other Federal agencies involved in the Federal Regional Council's Indian Task Force.

5. Congress should allow for 100 percent HUD funding of water and sewage and neighborhood facilities in Indian communities.

III. HEALTH

The health crisis among Maine Indians warrants an immediate attack on the problems by all health agencies. According to a 1972 report of the U.S. Public Health Service, the average life expectancy for an American Indian is 64 years of age compared to 70 years of age for the general population. This is one illustration of the problem.[136]

Several studies and reports have found major health needs and related problems among Maine Indians. There is basic agreement that the following are major problems: mental health (particularly alcoholism), lack of proper nutrition, infectious and contagious diseases, dental, sanitation, poverty, unemployment, transportation, communication barriers, accidents, and health education. These reports have collected medical and socio-economic data which clearly describe Indian health as being far below that of the general population.[137]

However, health services meeting these needs are wholly inadequate. Part of the inadequacy is the lack of funding and part is the cultural distinction between Indians and non-Indians.

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136. U.S. Department of Health, Education, and Welfare, The Indian Health Program of the U.S. Public Health Service, (Washington, D.C.: Government Printing Office, 1972), p. 29. (hereafter cited as The Indian Health Program). The IHS figure of 64 years is disputed by some non-governmental sources which estimate Indian life expectancy as of 1970 at 47 years.

137. Examples of such studies and reports include a survey by Louis Doyle, Division Director, Division of Indian Services, Maine State Bureau of Human Relations Services, Bangor, in 1969; Report of the Maine Regional Medical Program, Health Care, Health and Illnesses: Behavior of American Indians in the State of Maine, 1971; and a survey by the Department of the Army (U.S.) Medical Domestic Action Program, "American Indians in Maine: Phase One - Medical Survey." October 1972. These documents are in Commission files.

The most important Federal agency that meets Indian health needs is the Indian Health Service (IHS) of the Public Health Service of the U. S. Department of Health, Education, and Welfare (DHEW). However, it has continually resisted any responsibility to Maine Indians, claiming either lack of funding or lack of jurisdiction, paralleling the interpretation of the Bureau of Indian Affairs (BIA).

The National Council on Indian Opportunity estimates that Indian Health Service, now denied to Maine Indians, would amount to approximately $500,000 a year if applied to them. Under the IHS program, there are approximately 51 hospitals and 300 hospital stations, most of which are west of the Mississippi River. The IHS also maintains contracts with 300 private or community hospitals, 18 State and local health departments, and 500 physicians, dentists, and other health specialists.

Presently the IHS serves 478,000 Native Americans. This means that approximately 350,000 Indians, or nearly half of the American Indian population, are not receiving IHS care, including Maine Indians. For FY '73 the IHS budget was approximately $216 million.[138] From its inception in 1955 to 1973 the IHS budget increased sixfold, serving basically the same Indian groups.[139]

Ironically, the IHS participates in some international programs while it insists it cannot serve nearly half of the American Indian population. The IHS has entered into a "service agreement" with the Agency for International Development (AID) to assist in developing a medical center in Liberia with a 250-bed hospital. "Indian Health Service staff are participating with other countries in research of health problems similar or relevant to those existing in Indian communities in the United States, and working for the subsequent alleviation of those problems."[140]

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[138] Bangor Transcript, Feb. 7, 1973, p. 94, George Clark, Director, Office of Indian Affairs, Office of the Secretary, DHEW, Washington, D. C.

[139] U.S. Public Health Service (DHEW) To the First Americans (Washington, D.C.: Government Printing Office, 1967). Table, p. 5, shows total appropriation for fiscal year 1956 at $34.8 million, one-sixth the budget figure presented to the Maine Advisory Committee at the February 1973 hearing.

The Indian Health Service Advisory Board does not have any representative of a non-recognized tribe, including Maine Indians, to advise on health programming.

The National Institute of Alcohol Abuse and Alcoholism (NIAAA) of the National Institute of Mental Health, DHEW, is presently funding the Maine Indian Alcoholism Research Project to develop and support a rehabilitation program.[141] Prior to this project Maine Indians were inadequately served by a non-Indian agency for problems of alcoholism, and at the same time were being used statistically to acquire funding.[142]

There are no State health agencies which deal directly with Indian health needs. For instance, Dr. Peter Leadley, Director of the Bureau of Health in the State Department of Health and Welfare, stated that his department does not maintain a breakdown of health statistics by race. The State, therefore, has not developed any systematic means of making itself aware of specific Indian health problems. Dr. Leadley also stated he was not aware of the Regional Medical Program's report on Maine Indian Health.[143]

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140. The Indian Health Program.

141. Kenneth L. Eaton, Acting Director, NIAAA, letter to Hon. Harvey Johnson, Chairman, Maine Advisory Committee, Feb. 6, 1973.

142. Bangor Transcript, Feb. 7, 1973, p. 186, Frank Dennis, Director, Alcoholic Rehabilitation, Bangor Counseling Center, Bangor, Me. See also Stevens testimony, p. 11.

143. Ibid., pp. 140, 141, 148.

The State Department of Indian Affairs (DIA) does pay health bills for Passamaquoddys and Penobscots living on reservation but it does not have the authority nor the funding to design a health program for all Indians.

Five years ago, Maine medical personnel were involved with Indians in planning to meet the health needs of Passamaquoddys. The planning generated some of the studies referred to at the beginning of this chapter (see footnote 151) and also a hope that there would be a paramedical directors of community health facilities on the reservations. The studies and reports were produced but the direct health needs have not been met. Commissioner Stevens told the Advisory Committee that alcoholism remains a major problem on Maine Indian reservations, and monies available to treat alcoholism are not reaching Indian communities due to competing interests of local social service agencies.

The other part of the problem of Indian health needs is the cultural distinction between Indians and non-Indians. Edwin Mitchell, Co-Director of the Maine Indian Alcoholism Research Program (DIA), describes a different world view of the Indians who are in geographical isolation:

> Maine's Indian population is a distinct minority group with particular needs in service design. (They) are the last group of Native Americans in the northeastern part of this country who have actually retained a good measure of cultural distinctiveness and have been able to resist homogenizing and assimilating into the pervasive life style of predominantly European descendants. As with Indians in other parts of the country, this straddling of two cultures points up various social problems, particularly poverty and alcoholism.
>
> Alcoholism and alcohol abuse have a high incidence among Maine Indians and form a reciprocal relationship with other problems besetting this group. Indian life style is based on a different world view than that of the whites. An Indian's relation to his environment is one of integration, with a pronounced respect for natural order. In contrast, the prevailing

> world view of the western civilization and among white Americans has been to dominate and "conquer" the environment... The transplanted American culture...stresses individualism, competitiveness and the attainment of success in a chosen field. The Indian sees no great merit in financial and material attainment for its own sake.
>
> (The Indian has) no concept of time. There's no such word in the Indian language, and therefore the Indian has often been characterized as 'lazy.' Possibly if ecology becomes a functional part of this nation's cultural and economic life rather than a public relations catchword, the Indians' problem of adjustment to the dominant culture will be lessened. Until such time a goal in planning services for alcoholism and other social problems among the Indian population should be the delivery of a social service through the Indian cultural structure.
>
> ...Housing is generally poor, jobs are few, futility is a daily feeling and because of poor education and low job skills few Indians have an opportunity to leave and the need for the security of their own culture holds them immobile. Alcohol provides an easy escape for such people from the intolerable reality of their daily existence.[144]

It may be that Indian health needs can best be met by Indians themselves requiring health agencies to employ and train Indians.

In 1971, the DIA requested health services for Maine Indians from the Indian Health Service (IHS). Due to IHS's administrative position that Maine Indians were not eligible for their services, the Indians were sent to the Public Health Service where they requested a physician from the National Health Services Corps (NHSC). The DIA was told their application for a physician to serve the Indians would have to be cleared by the Regional Comprehensive Health Planning group in the county where the services would be provided. The Maine Medical Association (MMA) was approached by the NHSC for approval of such a project. The MMA said the need was great and gave its approval. However, the regional planning group, which included Washington County where the services were to be rendered, would not sign off on such a project.[145]

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[144] Bangor Transcript, Feb. 8, 1973, pp. 336-339.

The regional planning group then submitted their own application, which included Indians in the statistical data. As a result of that application, the Lubec Family Health Center in Lubec, Me., was created. This health center does not serve the health needs of the Passamaquoddy Indians, since it is too far away from the reservation and requires some form of prepayment, which is nearly impossible for the Indians.[146]

A similar situation in which health funds were acquired by the use of Indian statistics and without Indian input occurred in 1971 when the Penquis Community Action Agency applied for a Health Start grant from the Office of Child Development. This grant was specifically aimed at assisting the Penobscot community on Indian Island as one of its target areas. Harold Higgins, Director of the Penquis CAA, confirmed that he did not consult the Indians before applying for the grant. Asked what steps he had taken to involve the Indian community in the planning of this project, Mr. Higgins stated:

> Initially none. And I'd like to relate to that because, like many Federal programs you get a set of guidelines today and an opportunity to apply for a project,

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145. Bangor Transcript, Feb. 7, 1973, pp. 128-131, Robert Godersky, MD, Assistant Regional Health Director for Planning and Evaluation, Health Services and Mental Health Administration, Region 1, DHEW, Boston, Mass. See also Stevens testimony, pp. 25-27. Further information on the Lubec Center was provided by Dr. Godersky under Memorandum of Feb. 15, 1973, to the Chairman, Maine Advisory Committee, Commission files.

146. Ibid.

> and they want the application yesterday. So there was no prior planning for a Health Start.[147]

Advisory Committee member Buesing asked, "Would you apply for a program for Indians without their knowledge?" Higgins replied, "Yes."[148] Indians point to this as a classic example of overall projects being funded because of Indian statistics.

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[147] Bangor Transcript, Feb. 8, 1973, p. 67.

[148] Ibid., pp. 66-67.

RECOMMENDATIONS

1. The Maine Advisory Committee concludes that Maine Indian health problems are of serious and chronic proportions and that enough official studies have reported the crisis. Therefore, we recommend that all health agencies acquire the funding necessary to attack the health problems of Maine Indians.

2. The Advisory Committee concludes that the estimated $500,000 a year which should be serving Maine Indians from the Indian Health Service would begin to assist their specific health needs. We also found that IHS presently serves Indian people regardless of where they live. Therefore, we recommend that the Secretary of Health, Education, and Welfare make the administrative decision that IHS serve Maine Indians and request the necessary increase in appropriations. We further recommend that Maine health agencies, such as the State Departments of Health and Welfare, Mental Health and Corrections, and the Regional Medical Program, Maine Medical Association, take responsibility to report these needs to the IHS.

3. The Advisory Committee concludes that frequently data on Indians are used by agencies to justify funding and that Indians then are either not served or inadequately served. Furthermore, we conclude that Indians are rarely invited to participate in planning health programs that should include them. Therefore, we recommend that Maine Indians be properly represented on the various health advisory boards in the State and on the IHS Advisory Board. We also recommend that any agency receiving funding because of an Indian population in a particular area accept the responsibility to serve these Indians.

IV. EDUCATION

A. Importance to Maine Indians

Improvement in education is intimately tied to Indian self-determination and self-awareness. Wayne Newell, director of the Wabanaki bilingual education program, provided a clear view of Indian desire for bilingual and bicultural education: "...education to us means a sacrifice, basically of our culture, a sacrifice of our language, a sacrifice in a lot of cases of religion. These are the sacrifices that we make for the rewards for the so-called white man's education."[149] Mr. Newell further said:

> Our tribe is threatened at this point, especially in the lower grades, of losing our first language, our native language. We are not gaining a total competency in English as educators would have you to believe. We are losing a lot of our cultural ceremonies, a lot of our cultural beliefs, a lot of our very rich tales of the way and the whereabouts of where we came from.
>
> The schools at this point do not offer anything in this field. Any efforts on our part right now are just a very small gleam. I think there's a tendency because we have Indians now in the administration and in the policy-making bodies, that everything is all right. Everybody's happy. But I can assure this committee we're just at the very beginning of what we consider new frontiers in education....
>
> I think we'll all agree that whatever effort the State of Maine, or whatever effort the Federal Government has made, is a total disgrace. I think when you examine the rate of success, it is very nil...I've come to a very wise conclusion that the system

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149. Bangor Transcript, Feb. 8, 1973, p. 271.

> is failing the majority of the people it's trying to educate.[150]

As in other problem areas, greater strides have been made on reservation than off to guarantee Indian control over educational services. Nevertheless, Indians testified, only beginning steps have been taken. Indian efforts, moreover, are once again hampered by the refusal of the Federal Government to extend certain Indian educational services to Maine Indians for the same reason the Bureau of Indian Affairs denies them services.

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[150] Bangor Transcript, Feb. 8, 1973, pp. 271-272.

B. Reservation Indian Education

The State of Maine traces its responsibility for Indian education to its treaties. As has been pointed out previously in this report, however, this treaty obligation is recognized only with regard to the Passamaquoddy and Penobscot Tribes. Previous to 1966, Maine Indian education was handled by the Department of Health and Welfare. When Indian welfare was transferred to the Department of Indian Affairs in 1965, the Maine Department of Education and Cultural Services (DECS) took charge of reservation Indian education.[151]

Robert Gerardi, Assistant Commissioner of the DECS, stated that since 1966:

> Maine Indian education has been characterized by a movement toward decentralization, with decision-making taking place in the schools, increased Indian control, and introduction of Indian culture and language in the curriculum, and general updating of facilities...The DECS provides funding for the operation of elementary schools on the reservation and pays tuition and transportation for reservation Indians who wish to attend schools in the nearby communities.[152]

The reservation schools are the primary grades, up to fifth or eighth grades, depending on the reservation. Members of the Indian School Committees in describing their activities stressed that they do not feel they have had enough input into programs and have not received enough information about existing Federal and State funds.[153]

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151. Pursuant to Chapter 1351 Section 4719, M.R.S., 1964, as amended. Section 4702, which creates the D.I.A., transfers the duties and powers previously held by the Commissioner of Health and Welfare relating to Indians, "except their education," to DIA.

152. Bangor Transcript, Feb. 7, 1973, p. 257.

153. Bangor Transcript, Feb. 8, 1973, pp. 237-269, Albert Dana, representing Blanche Sockabasin, Chairwoman, Dana Point School Committee; Mary Altvater, Chairwoman, Pleasant Point School Committee; and Michael Ranco, Chairman, Indian Island School Committee.

Beginning in 1973, these school committees for the first time began to manage their own accounting books instead of having it done in the State office, 250 miles away at Augusta.[154]

Wayne Newell described the Wabanaki bilingual program which he directs at Indian Township. This program at present serves only one reservation because of budgetary limitations:

> ...Children work in the classrooms today with very simple but very effective reading devices. For instance, they have developed two readers, and I will have to say them in English although they do have a Passamaquoddy title, but unfortunately you do not share the blessings of our language at this point anyway. One is Molly and her Horse and Joseph and his Cow, four page booklets all in the native language that the children drew and worked the text out with the staff. These are readers.... We are developing many, many other materials relevant to the surroundings in Indian Township....
>
> We say we should make the schools the happiest place on the reservation, and that's what we're trying to do.[155]

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[154] Bangor Transcript, Feb. 8, 1973, pp. 241-242, testimony of Ms. Altvater.

[155] Ibid., pp. 273, 274, 278.

C. Indian Education Off-Reservation

The Advisory Committee heard varying opinions from Indian educators concerning the treatment of Indians when they leave the reservation for high school. Some felt the problem was being well handled by all concerned, and some felt that the lack of understanding in white communities in regard to Indians is greatest in those communities which are closest to the reservation.[156]

In 1972 the Maine Advisory Committee requested that Maine's Department of Education and Cultural Services (DECS) investigate the education of Indian children in Aroostook County.[157] An ad hoc committee for the Maine Education Council from October 1972 to January 1973 produced the following conclusions:

> 1. Some Indian students and their parents feel that they are being discriminated against. For as long as this feeling exists, it creates a problem which impedes the learning process.
>
> 2. There is a problem in the area of health and welfare, which directly affects the personal well-being, thusly the school attendance of some Indian students.
>
> 3. A bilingual situation points up the need for remedial assistance.
>
> 4. The present status of the off-reservation Indian in Maine is such that he cannot take full advantage of State funding, which well might alleviate some of the above problems.[158]

The education committee then made the following recommendations:

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[156] Bangor Transcript, Feb. 8, 1973, p. 180.

[157] Maine Advisory Committee, minutes for Apr. 25, 1972, June 29, 1972, and Sept. 7, 1972, noting correspondence with DECS Commissioner. Commission files.

[158] Ad Hoc Committee for Education of Off-Reservation Indians of Aroostook County to the Maine Education Council, as approved by the Council Jan. 18, 1973, p. 1.

1. That a coordinator of education for off-reservation Indians be assigned to the Division of School Operations of the Bureau of Curriculum Resources in the DECS, and that sufficient funds be provided for a coordinator of off-reservation Indians and an office including secretarial assistance, to be located in Aroostook County. The coordinator should be charged to make special effort to encourage superintendents of schools to provide for teacher workshops to understand problems of off-reservation Indians.[159]

2. The Committee strongly supports the Department of Indian Affairs' suggestion that an Office of Off-Reservation Indian Development be created.[160]

3. The Committee strongly recommends the development of legislation designed to create State recognition of the off-reservation Indians.[161]

Shirley Levasseur, VISTA worker for the Association of Aroostook Indians, told the Advisory Committee that local communities refuse to allow Indians to vote on school matters. She reported that off-reservation Indians are discriminated against by the State and Federal governments in educational programs.[162] Ms. Levasseur stated that off-reservation

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[159] Bangor Transcript, Feb. 7, 1973, pp. 260-262, Marion Bagley, who chaired the ad hoc committee. The DECS Commissioner, in a letter of Feb. 21, 1973, to Maine Advisory Committee Chairman Harvey Johnson pledged to get legislative funding for this proposal or assign a currently funded consultant to the job. Commission files.

[160] Established by the Maine Legislature in 1973, H.P. 976-L.D. 1290 (C.130, P.L. 1973), with funds appropriated for that purpose, as part of the Department of Indian Affairs. The DECS Commissioner stated that this was an item for the Governor.

[161] Not yet acted upon by the Maine legislature, The DECS Commissioner also deferred action on this, stating that it was for the Governor to recommend.

[162] Bangor Transcript, Feb. 8, 1973, pp. 279-280, 284-285-286. Ms. Levasseur said that American-born descendants of Canadian Indians were not allowed to register to vote because of their Canadian ancestry.

Indians feel that if they were federally recognized, they would be able to get assistance for educational programs, health and welfare needs, and employment.

D. Denied Federal Indian Education Services

Dr. Richard McCann, Assistant Regional Commissioner, Office of Education, DHEW, Region I, provided information requested by the Advisory Committee concerning Office of Education services available to "federally-recognized Indians" that are not provided to "non-federally recognized Indians":

> 1. Title I of the Elementary and Secondary Education Act of 1965 provided in fiscal 1973 a set-aside of $14.1 million for the BIA schools.
>
> 2. Public Law 874 provides Impact Aid payments to schools.
>
> 3. Public Law 815 provides for assistance with public school construction in school districts and individual schools attended by reservation children.
>
> 4. An amendment to the Act providing for bilingual education makes it possible to fund BIA schools and tribal and locally controlled Indian schools for bilingual programs...[163]

Johnson-O'Malley funds are another major source of Federal Indian education funds denied to Maine Indians:

> The Johnson-O'Malley Act of 1934 (JOM) is one of the most important Federal laws affecting Indian education. Designed exclusively for Indians, it is administered by the BIA which disburses money primarily to public schools where Indian students are enrolled. JOM money is distributed through contracts with State departments of education, and less frequently, local school districts. While incorporated tribes and non-profit groups are eligible,

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[163] Richard V. McCann, Assistant Regional Commissioner, U.S. Office of Education (DHEW), Region I, Boston, Mass., to Hon. Harvey Johnson, Chairman, Maine Advisory Committee, Mar. 29, 1973, p. 1.

> they have been rarely funded. Appropriations for JOM have more than doubled in the last four years, from $9,952,000 in 1968 to $22,652,000 in 1972.[164]

Meredith Ring, Supervisor, Maine Indian Education, indicated that her office in the Department of Education is considering submitting a proposal for JOM funds, under which the State would provide services to Indians.[165]

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[164] Dan Rosenfelt, "New Regulations for Federal Indian Funds," Inequality in Education, Harvard Center for Law and Education, Number Ten, December 1971, p. 22.

[165] Bangor Transcript, Feb. 7, 1973, p. 272.

E. Secondary and Post-Secondary Indian Education

In 1971 the Maine Legislature set up an Indian Scholarship Committee to grant scholarships to any member of the Maliseet, Micmac, Passamaquoddy, and Penobscot Tribes in Maine wishing to board at a private school or to further their post-secondary education.[166] The fund has been exhausted and the committee is seeking to have the appropriation increased.

The University of Maine has established a policy of free tuition for Maine Indians. However, the policy is being challenged in court with the contention that it discriminates against non-Indians.[167]

With respect to vocational education, the policy of the State Board of Education is to waive tuition and fees for "qualified and eligible North American Indians residing in Maine who are accepted as students at any vocational-technical institute or school of practical nursing. The State will subsidize room and board charges for those Indians living in school dormitories. Academic qualifications and tribal eligibility shall be determined by the campus at which application is made. Although this eligibility applies to all Maine Indians, in February 1973 only six were enrolled in the Vocational-Technical Institute in Maine.[168]

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166. Chapter 301-A, Sections 2205-2210 M.R.S. as amended.

167. Aiken v. University of Maine, Supreme Ct., Penobscot Co. Civ. Action #10592, filed Jan. 18, 1972. Pine Tree Legal Assistance Inc. (the Maine OEO Legal Services Program) intervened on behalf of a Penobscot Indian seeking to uphold the free tuition policy, Jan. 17, 1973.

168. Carroll R. McGary, Commissioner, Maine Department of Educational and Cultural Services (DECS), Augusta, letter to Hon. Harvey Johnson, Chairman, Maine Advisory Committee, Feb. 21, 1973, p. 1

F. Preschool Indian Education

The Office of Child Development (OCD) in DHEW generally does not make direct grants to any of the Maine tribal governments for preschool Indian education, but it does make grants to community action agencies (CAAs), as designated by the Office of Economic Opportunity where there are sizeable Indian populations.[169] However, at the time of the hearing, the Office of Child Development, Region I, was working with Maine Indian representatives toward funding a 1-year preschool program from its unexpended funds for fiscal year 1973.[170]

The Office of Child Development, through its Washington-based Indian and Migrant Program Division (IMPD), makes grants for the operation of Head Start programs on Federal Indian reservations directly to tribal governments. As of August 1972, the IMPD of OCD was funding Head Start programs benefitting approximately 9,000 preschool children on 59 reservations. Maine Indians do not benefit from any of these Head Start programs.

The three Maine counties with sizeable Indian populations whose CAAs operate Head Start programs are Aroostook, Penobscot, and Washington Counties. These Head Start programs are supposed to have a racial-ethnic composition that reflects the population in the area. Of the approximately 2,000 children in the 14-county CAA Head Start programs in 1973, 40 were American Indian, 6 were black, and 1 was Asian American.

Aroostook County CAA was not represented at the hearing although it was invited. According to OCD, in February 1973 there were no Indian children of the 126 participants in the Aroostook County CAA Head Start program. OCD had no racial breakdown of their summer Head Start program which served 135 children. Penquis Community Action Agency (which includes Penobscot County) had 10 Indian children of the 265 Head Start participants. Washington County CAA was not represented at the hearing, but the OCD provided some information concerning the Head Start programs: they had a summer Head Start program serving 150 children, 30 of whom were Indian. Two of the centers operated summer programs in space provided by the Tribal Governments of Pleasant Point and Peter Dana Point.

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[169] Rheable M. Edwards, Assistant Regional Director, Office of Child Development, DHEW, Region 1, Boston, Mass., statement submitted to the Maine Advisory Committee Feb. 5, 1973, p. 4.

[170] This program was subsequently funded by the Office of Child Development with an 18-month grant of $148,000 extending to the end of fiscal year 1975. Recipient of the grant was the Maine Indian Education Association.

The Advisory Committee was told by the OCD that Indians would need to be represented on these boards to insure that they had proper participation in the programs. The Advisory Committee found that Indians are not so represented.

Dr. Richard McCann of the U.S. Office of Education informed the Advisory Committee of a $52,000 preschool migrant program funded by the Elementary and Secondary Education Act Title I, operating in Aroostook County. Dr. McCann stated, "Few Indian children are involved in this program; e.g., at Presque Isle of the 204 pupils in the program, 7 are Indian."[171] Indians argued that more Indians should be involved in this program since Indians composed a major portion of the migrant labor force in the county.

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171. Richard V. McCann, Assistant Regional Commissioner, U.S. Office of Education, DHEW, Region 1, Boston, Mass.: "Office of Education Services and the Maine Indian," Statement prepared for the Maine Advisory Committee hearings submitted Feb. 5, 1973, pp. 13-14.

RECOMMENDATONS

1. That Maine's Department of Education and Cultural Services, with significant Indian input, submit a plan to the Federal Government for Johnson-O'Malley funds for Maine Indian education.

2. That the Federal Indian Education Advisory Board include eastern Indian representation to insure that Maine Indians have input into the policy.

3. That Maine's Department of Education and Cultural Services and the Federal Office of Education insure that Maine Indians are receiving their share of Elementary and Secondary Education Act Title I funds.

4. That the recommendations of the Maine Education Council to the Department of Education and Cultural Services be implemented, creating a supervisor of off-reservation Indian education who should be an Indian.

5. That Indians be appointed to any proposal-writing teams for any programs being proposed for Indian education; furthermore, that Indian School Committee members be informed of the funding for their programs, and that they be provided annually the budgets for school programs and an accounting of how funds are spent.

6. That an outreach program be established to encourage Indians to take advantage of the post-secondary education programs available to them in Maine, and that the post-secondary schools be sensitized to Indian culture and educational needs.

7. That the Office of Child Development, DHEW, Region I, and the Office of Economic Opportunity insure that Maine Indians receive proper representation on the community action agency boards in Aroostook, Penobscot, and Washington Counties, so that Indian children may participate fully in Head Start programs.

V. FOSTER CARE

Because of the social and economic problems of the Maine Indian community, many Indian children have been placed in foster care homes. As in other parts of the country, Indians in Maine find this solution to a problem a grave problem in itself. The ratio of Maine Indian children in foster care is one in eight--16 times the general population rate of 1 in 128.[172]

Only 4 of the 136 Indian children in the State foster care program are in Indian homes.[173] This means that both the children and the Indian community suffer from deculturation. The Maine Department of Health and Welfare (DHW) has been involved with Indian representatives in identifying potential Indian foster homes. This effort, however, has identified only three potential foster homes and the licensing of one.[174]

Robert Wyllie, Director of the Maine Bureau of Social Welfare, told the Advisory Committee that the greatest impediment to licensing Indian homes for foster care is substandard physical condition of the homes.[175] Otherwise, he said, the homes would be fit to care for the children. As discussed previously, many of these homes now judged inadequate for child care, were constructed under DHW supervision on the Passamaquoddy Reservations.

The Advisory Committee wanted to know specifically why there are so few Indian foster homes, and if anything is being done to assist potential Indian foster parents to bring their homes up to standards required by the foster care program.

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172. Bangor Transcript, Feb. 7, 1973, p. 214.

173. Ibid., p. 227.

174. Ibid., p. 216.

175. Ibid., p. 228.

Mr. Wyllie indicated that the Department of Health and Welfare is trying to identify and license additional Indian homes for foster care and to assure that Indian children not in Indian foster homes are afforded opportunities to understand their unique rights and cultural heritage. Mr. Wyllie reported:

> We have no money specifically which we could tap, if that's your question, to help Indian families upgrade their homes so they could in fact meet licensing standards. One of the intentions which we have been discussing with the representative from the Indian community regarding this project is the identification of some funds in that financing, which could be used specifically to in fact upgrade some of these homes so that they could be licensed.[176]

The funds referred to by Mr. Wyllie are Federal funds from the Minority Services Division of Social and Rehabilitation Service of DHEW. Iola Hayden, Director of the Minority Studies Division of HEW, told the Advisory Committee that a foster care program was one of the priorities of the Indian unit of the Minority Studies program.[177] However, since the hearing, Ms. Hayden has left the division which was then dismantled.[178]

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176. Bangor Transcript, Feb. 7, 1973, p. 228.

177. Ibid., Feb. 8, 1973, pp. 160-165.

178. Ms. Hayden left the division in May 1973. The Minority Studies Division was part of the Research and Demonstration branch, Social and Rehabilitation Service, DHEW, Washington, D.C.

RECOMMENDATIONS

1. That Maine's Department of Health and Welfare identify and secure Federal funds to upgrade potential Indian foster homes for Indian children, and that Maine's Department of Health and Welfare upgrade the homes which it built on the Passamaquoddy Reservation.

2. That the U.S. Commission on Civil Rights initiate a national Indian foster care project to determine if there is massive deculturation of Indian children.

VI. WELFARE

Maine Indians do not treat welfare as the focus of their complaints. However, given their low economic position in Maine society, welfare programs directly affect many Indians.

Robert Wyllie, Director of the Bureau of Social Welfare, described the bureau's responsibilities:

> The Bureau of Social Welfare is delegated the responsibility for administering the categorical Public Assistance Titles IV-A, IV-B, and XVI of the Social Security Act. These specifically fund the programs known as AFDC (Aid to Families with Dependent Children), Child Welfare (for example, protective services, foster care), Aid to the Aged, Blind, and Disabled. In addition, we are delegated the responsibility for providing a wide range of social services to the above categorical recipients and selected former and potential recipients of these identified programs. Further, we retain the responsibility for administering the State General Assistance program, Food Stamps and Donated Commodity programs. The major additional social service program which we administer is the Older Americans Act. In State plans, policies, regulations, descriptive pamphlets, hiring procedures, staff training associated with these programs there is a verbal or written commitment to the agency's position of non-discrimination because of race, color or national origin.[179] (Emphasis added)

Although the pervasive poverty in the Maine Indian communities is proportionately higher than in the Maine population at large, the Citizens' Advisory Board of the Bureau of Social Welfare has no Indian representation.[180] The Advisory

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[179] Bangor Transcript, Feb. 7, 1973, pp. 212-213.

[180] Ibid., p. 234, Mr. Wyllie: "To my knowledge there are no Indians on any of our boards of advisory committees, much to my chagrin. And that was pointed out the last time we met with representatives from the Indian community. There will be some corrective action taken in that regard."

Committee was informed by the Social and Rehabilitation Service (SRS) in DHEW, Region I:

> There are no compliance issues between SRS and the State Welfare Agency as to its responsibility for services to the Indians in Maine which would indicate a criticism of those programs administered by the State of Maine.[181]

The Maine Department of Indian Affairs (DIA) is responsible for the emergency welfare needs of reservation Indians.[182] Nicholas Dow, Chairman of the Penobscot Tribal Council, told the Advisory Committee the following in regard to Indian agents:

> The Department of Indian Affairs is in charge of emergency welfare disbursement and to my knowledge there is no set policy for the Indian agents that disburse. In other words, at their own discretion. I feel that there should be some sort of set procedure on this.[183]

John Stevens, Commissioner of Indian Affairs, told the Advisory Committee that the disbursement of welfare is very time consuming, inefficient, and inequitable. With the rising unemployment among Indians, many are returning to the reservation and the DIA simply will not be able to meet their welfare needs, he said. Commissioner Stevens said that he advocates direct grants to the tribes so they can handle their own welfare without having to go through a bureaucracy. If the tribes wish to use the funds for economic development instead of welfare payments, he said, then they will be in a position to make such a decision.[184]

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181. Neil P. Fallon, Regional Commissioner, Social and Rehabilitation Service, DHEW, Region 1, Boston, Mass., statement submitted to the Advisory Committee Feb. 1, 1973, by Harold Putnam, Regional Director, DHEW, Boston, p. 11.

182. Chapter 1353, Section 4771, M.R.S. as amended (Penobscots); Chapter 1355, Section 4837, M.R.S. as amended (Passamaquoddy).

183. Bangor Transcript, Feb. 8, 1973, p. 195.

184. Bangor Transcript, Feb. 7, 1973, p. 31.

Mr. Wyllie stated:

> Emergency welfare needs of Indian families living off the reservations are handled through the respective local welfare officials, subsequently reviewed, and reimbursed by our State General Assistance Unit. Our heaviest general assistance expenditures in behalf of Indians occur in the town of Houlton and surrounding communities.[185]

In response to questions by Advisory Committee members, Mr. Wyllie indicated his office did not have figures on the number of Maliseet and Micmac categorical assistance recipients in Aroostook County, of which Houlton is the county seat.[186]

Further questioning of Mr. Wyllie concerning the payment of welfare benefits to non-reservation Indians resulted in the following testimony:

> Mr. Wyllie: I think you would know also that the policies of the town would vary from municipality to municipality, even though the source of the money is the same. The source of the money would be general assistance, but technically the need is reviewed, assessed. The action is taken by the municipal official.
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> Mr. Kapantais (Advisory Committee member): Is that under supervision from you?
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> Mr. Wyllie: Our supervision would simply be looking at those bills and discussing them with a local municipal official. But in fact, if the bill had been incurred, we would in fact reimburse them.
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> Mr. Kapantais: But the decision of whether or not to let the bill become incurred by the town is left up to the local official?

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185. Bangor Transcript, Feb. 7, 1973, p. 214.

186. Bangor Transcript, Feb. 7, 1973, p. 218.

Mr. Wyllie: That's right.

Mr. Kapantais: Even though it's, so to speak, your money?

Mr. Wyllie: Correct.[187]

Robert Moore, attorney for the Association of Aroostook Indians in Houlton, elaborated on this problem:

> ...Now there is a provision in the Statutes of Maine, that under the settlement laws off-reservation Indians are non-settled people, and the general assistance of the State will pay or reimburse for any expenses paid by the town incurred through Indians. It is not restricted to Passamaquoddy and Penobscot Indians. And what in fact happens generally I would suspect--this was brought up yesterday and denied--is that Indians, for instance, in Houlton would go to the local overseer and get a town order, and that town order would then enable him to go down to the grocery store and buy a quantity of food. And he would then be required, if he's physically able, to work for the town, usually the town highway department. Now the town then is usually reimbursed by the State, from the State general assistance fund for the money that is paid out in this town order. So, what the State has done, instead of assisting the Indian, it's actually subsidizing the town highway department. And I think this is a very serious thing that should be straightened out with the Department of Health and Welfare. I think it would be wise for the record to indicate that this is occurring. The other thing is the guidelines for issuance of general assistance should be made statewide.[188]

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[187] Bangor Transcript, Feb. 7, 1973, pp. 219-220.

[188] Bangor Transcript, Feb. 8, 1973, pp. 184-185. Mr. Moore is now engaged in the private practice of law at Island Falls, Me., and advised by letter of Dec. 13, 1973, that the sections of Maine law (22 M.R.S.A. Section 4451, et seq.) establishing settlement laws were repealed during the 1973 legislative session. Whether such repeal affects Ch. 1353, Section 4722 or Ch. 1355, Section 4837, pertaining to relief of off-reservation Indians by towns and providing for reimbursement by DHW, is not clear. Commission files.

RECOMMENDATIONS

1. That the Social and Rehabilitation Service, DHEW, establish a line of responsibility to assure that funds made available to Maine's Department of Health and Welfare for Indians are used to serve Indians.

2. That a unit be established within the Department of Health and Welfare, with Indian personnel, to assist in the monitoring of Federal funds designated for use by Maine Indians.

3. That guidelines for general assistance be made statewide and adequate records kept of the number of Indians receiving general assistance for emergency needs and how long they are receiving it.

4. That Maine's Department of Indian Affairs be authorized to make direct grants to the tribal governments so they can handle their own welfare and rehabilitation.

VII. LAW ENFORCEMENT AND PUBLIC SAFETY

Because of time limitations, the Advisory Committee's review of the law enforcement problems of Maine Indians was limited. Nonetheless, testimony at the Bangor hearings revealed serious problems in the relationship of Indians to the criminal justice system. Allegations were made of unfair treatment by local, county, and State police, as well as the courts and the bail system.

A. State Police

A key witness at the Advisory Committee's hearing was the late Col. Parker Hennessey, then Commissioner of the Maine Department of Public Safety. Colonel Hennessey discussed one incident which took place in 1967 at the Pleasant Point Passamaquoddy Reservation and which received wide publicity at the time. This incident, involving 11 State Police officers, had raised allegations of racism which were subsequently investigated by the Civil Rights Division of the U. S. Department of Justice and by the Governor's Task Force on Human Rights. Colonel Hennessey termed this incident an "over-reaction" and denied that it involved any racism. At the request of the Advisory Committee, he agreed to provide a copy of the Justice Department's report.[189]

In subsequent communication with the Advisory Committee, Colonel Hennessey's deputy indicated that the Department of Public Safety had never had a copy of the Civil Rights Division report on the incident.[190]

The Advisory Committee asked Colonel Hennessey if there were training programs for State Police and other law enforcement officials to provide sensitivity training in relation to the history and culture of Indians. Colonel Hennessey agreed that such training was desirable, and made a commitment to develop such a program.[191]

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[189] Bangor Transcript, Feb. 8, 1973, pp. 83-84; see also letter from Jacques E. Wilmore, Regional Director, U.S. Commission on Civil Rights, New York Regional Office, to Col. Parker Hennessey, Commissioner, Department of Public Safety, State of Maine, Feb. 20, 1973, requesting the document. Commission files.

[190] Lt. Col. Donald E. Nichols, Deputy Chief, Maine State Police, Augusta, letter to Jacques E. Wilmore, Feb. 26, 1973. Commission files.

The Advisory Committee also questioned Colonel Hennessey about disciplinary action taken against a State Police officer in Washington County against whom allegations of racism had been made. Colonel Hennessey said that disciplinary action had been taken in 1969 and 1972 and the officer was then transferred from Washington County to Aroostook County. Members of the Advisory Committee questioned this action and pointed out that approximately half of Maine's off-reservation Indians live in Aroostook County.[192]

With respect to the employment of Indians in the State Police Department, Colonel Hennessey acknowledged that there was need for a special recruitment program and submitted a copy of guidelines for minority recruitment which he had received during a law enforcement conference in Washington, D. C.[193] He said that a special effort would be made by the State Police to recruit Indians, and that he would seek to change regulations such as the height requirement which tends to limit the opportunities of Indians.[194] However, there was no allotment in the budget of the Department of Public Safety to provide funds for a recruitment program.[195]

Whether Colonel Hennessey's successor will honor commitments he made remains to be seen.

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[191] Bangor Transcript, Feb. 8, 1973, p. 89.

[192] Ibid., p. 84.

[193] Ibid., pp. 94-95, and 103.

[194] Ibid., pp. 103-104.

[195] Ibid., p. 96.

B. Jurisdiction on the Reservation

Each of the three reservations has an Indian constable appointed by the respective Tribal Councils. These constables are responsible for enforcing Indian and Maine laws on the reservations.[196] In the line of duty, they sometimes must work with local, county, and State police. The Advisory Committee was told this working relationship is often one-sided, and non-Indian law enforcement officers treat Indian constables with disrespect and sometimes harass them.[197] Tribal officials, moreover, are prevented from setting regulations such as speed limits because of the State jurisdiction over their land.[198]

Albert Harnois, constable at Indian Township, told the Advisory Committee of problems related to the District Court in Calais and of the lack of equipment:

> My problem is with the District Court in Calais... A couple of weeks ago I was beaten up while I was arresting a person. The next day I went down there to try to make a complaint, the court clerk refused to make a complaint, so she said to either talk to the sheriff's department or the State police. The local State police refused to help me in any way. But the deputy sheriff did write up what had happened, but then I have trouble getting the complaint made just the same. So, at that time the county attorney wasn't in. So I got the secretary to get in touch with him. This was about seven or eight hours afterwards. And I got in touch with the county attorney, and then he just wanted a detoxification charge to be made out, he wanted to drop the other charges that I had on the other people, because I had assault on a police officer, interfering

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[196] Authorized by Chapter 1351, Section 4716, M.R.S., 1964, as amended.

[197] Bangor Transcript, Feb. 8, 1973, pp. 349-50, Albert Harnois, constable. Indian Township.

[198] Ibid., p. 354, Raymond Moore, constable, Pleasant Point.

> with a police officer, besides arresting one person. Then I told the county attorney that if he didn't make the complaints out, I would resign my position as a constable and I would state the reason why I resigned. So then he changed his mind about making that complaint, and he told the clerk to make the complaints now.
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> And then my other problem is police equipment, trying to get police equipment for myself so I can do the job properly. I tried the Indian Affairs Department, they refused to give me the equipment that I need. I also went to the Attorney General, but he said he couldn't do anything about it, it was up to the Indian Affairs Department. So, the only thing I have right now belongs to the State, just a badge.[199]

Raymond Moore, constable at the Pleasant Point Reservation, further illustrated the problems faced by Indian constables:

> ...we are receiving lack of cooperation from the town police, from the sheriff's department in Washington County, and from the State police, the State of Maine. For instance, like we are put there, we sign the contract through the Department of Indian Affairs, the governing body of the reservation elects us to do the job that we are supposed to do on the reservation. But if we don't have no equipment, no matter how much knowledge, or how much schooling that we have, if you don't have the equipment to work with there is nothing that anybody can do. Now, this is the reason why I said we don't have no cooperation from outside.
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> For instance, if you have a case of breaking and entering. The first thing you've got to have, the first thing you've got to obtain is, for instance, like a fingerprint kit. That's the reason why you call these people in to do the job for us. It seems to me every time I call

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[199] Bangor Transcript, Feb. 8, 1973, pp. 349-350.

> the State police or the sheriff's department, or the local police to assist us on these cases, that they often tell us, it's my day off. Now, if this was like one occasion, in one week I had three occasions of calling the State police, to assist me on a case, which he has the equipment to do it with, but he tells me that it's his day off. I don't know how many times the State allows for his boys to be on his day off. But this is the kind of thing that we are faced up to.
>
> We are capable as constables and as police officers to carry out our duties, and I think we have that knowledge.[200]

Constable Moore told the Advisory Committee of his problems with the District Court in Calais. On one occasion, he said, it was necessary for him to arrest a white motorist who had failed to stop for a stop sign:

> ...and then I went up to the clerk of the court in Calais and I filed a complaint, which I was refused. It was a white man. And, as a matter of fact, the clerk of the court told me, I don't give a damn who you are but you ain't going to get it. I took it up in front of the judge, and as a matter of fact, I had a hard time, it took me four days before I could file a complaint against this man...
>
> But as far as an Indian being brought in to these courts, and as a matter of fact the facts show, and these things cannot be denied, right there in Calais, we are having hard times with the white people, but even getting a warrant for the arrest and as far as bail money goes, if an Indian is being arrested, his bail is double than that of any other person.[201]

Constable Moore said that Indian constables had to function without the equipment necessary to perform the job. He complained of the lack of cooperation from other law enforcement officials:

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[200] Bangor Transcript, Feb. 8, 1973, pp. 351-352.

[201] Ibid., pp. 352-353.

> ...as a matter of fact, if there is money appropriated for the law enforcement agencies, somebody else gets it first before we do. And as of right now, we are working, we don't have no radio, or communications in our cars, we don't have no cameras, we don't have anything to work with. That is the reason why that we are, as a matter of fact, I am very glad to say this, at this time, every time that we want any outside help, we can't get it. I know that there is a discrimination against us. As a matter of fact, they laugh at us sometimes. As a matter of fact, my fellow constable here lives about fifty miles away from me has the same trouble. And I am sure that he is aware, and I am sure that everybody is aware of the situation that we are in.[202]

David Koman, of the Criminal Justice and Law Enforcement Planning Division of the Eastern Maine Development District, questioned about the right of reservation constables to enforce State laws, replied:

> They can within the confines of the reservation. In other words, any road, say a State highway, runs through the reservation. They have the right to enforce State laws on that highway.[203]

On Route 1 through Indian Township, which is thickly settled and a pedestrian area, the speed limit is 35 miles per hour, but one-half a mile outside the reservation in the town of Princeton the speed limit is 15 miles per hour. The Passamaquoddy Governors have attempted for years to persuade the Maine Department of Public Safety to simply change the zones to insure the safety of people living on the adjacent land since deaths have resulted from speeding traffic.[204] Governor Eugene Francis, of Pleasant Point, has also been trying for years to get a blinker on Route 190 to safeguard the crossing of school children. The State has not met his request.[205] Constable Moore told of his efforts regarding Rouge 190:

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[202] Bangor Transcript, Feb. 8, 1973, pp. 353-354.

[203] Ibid., p. 128.

[204] Bangor Transcript, Feb. 8, 1973, pp. 216-217, Gov. Allen Sockabasin, Indian Township.

[205] Ibid., p. 354.

I have been fighting with the highway commissioner ever since I've been on to reduce the speed zone on that Route 190, which is very dangerous. The reason why I say that, there has been many people that has got killed on that main highway that runs off right there on the reservation. And as a matter of fact, my son was one of them. And ever since then, they put up signs, fifty miles an hour, and then another ten feet there's another sign that say's forty-five, and then another twenty feet there will be another sign that says sixty miles an hour. And this is awfully confusing to some people. The reason why it is confusing is because a forty-five mile per hour zone sign is yellow. And these are what they call courtesy signs, but the original, black and white signs say fifty.

And I had the occasion of investigating an accident here about two weeks ago. As a matter of fact, I just got out of the hospital. I was laid up for about six days. While I was investigating the accident another car ran over me and my cruiser. And my dome light was on, and my flasher was on, and as a matter of fact, there was a policeman on the other side, he had his blue light on. But this fellow from Eastport didn't take no heed of even slowing down whatsoever. And I guess he struck me up in the air for about ten feet, and I was blacked out, and like I said, this road is very dangerous.[206]

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[206] Bangor Transcript, Feb. 8, 1973, pp. 354-355.

C. Proposed Indian Police Department

Indian constables told the Advisory Committee that training, equipment, pay, and fringe benefits for Indian constables were either grossly inadequate or non-existent. The Advisory Committee was told that a proposal has been prepared for the establishment of an Indian Police Department which would be financed by an 18-month grant of $88,553 from the Federal Law Enforcement Assistance Administration (LEAA). The proposal is designed to give Indians the tools to deal with reservation law enforcement problems. It will reduce the necessity for calling on outside police services and thereby reduce jurisdictional problems. The program would include the training of Indian constables at the U. S. Indian Police Academy on the special problems relating to enforcing the law on reservations. It would also establish an Indian Police Advisory Board of seven members; the Governor of each of the three Maine Indian reservations, or his representative...one representative of the Washington County Sheriff's Department, one representative of the Penobscot County Sheriff's office, one representative of the Police Department of the City of Calais, and one representative of the Police Department of the city of Old Town.[207]

Since the hearings this proposal has been funded.

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[207] "Upgrading Indian Police Services for Maine Indian Reservations," Application for Grant Discretionary Funds, Law Enforcement Assistant Administration, U. S. Dept. of Justice, submitted by the Maine Department of Indian Affairs, 1973.

RECOMMENDATIONS

1. That Maine's Department of Public Safety change the speed zones requested by the Indian Tribes on State roads through reservation land and erect a caution light on the road on the Pleasant Point reservation land. The Maine Department of Public Safety should establish some mechanism to deal with Indian requests regarding State roads which traverse their reservations.

2. That Maine's Department of Public Safety make an effort to recruit and train Indians for the State Police and remove any written or unwritten restrictions which may tend to discriminate against Indian applicants for employment.

3. That Maine's Department of Public Safety give sensitivity training to the State Police regarding Indians and laws governing the Indian reservations. And that Maine's Police Academy provide sensitivity training in regard to Indians for all trainees and cooperate with the proposed Indian Police Department by providing training to the Indians who are hired.

4. That the Maine State Legislature enact legislation to continue the funding of the Maine Indian Police Department and that this Department be made a part of the Department of Indian Affairs.

EXHIBIT I

TELEGRAM

3/28/73

The Honorable C.B. Morton

Department of the Interior
Washington, D.C.

On behalf of the Maine Congressional Delegation, I am writing concerning the rights of Maine Indians to receive services from the Federal Government. We would greatly appreciate it if you could indicate whether the Indians in Maine are eligible to receive services provided by the Bureau of Indians Affairs pursuant to the Snyder Act, 42 Stat. 208, 25 U.S.C. 13. If you consider any of Maine Indians to be ineligible for Snyder Act services, please indicate your reasons.

As the Maine Congressional Delegation is meeting next Tuesday, April 3, we would greatly appreciate having this information prior to the meeting.

Thank you for your prompt consideration.

Sincerely,

Edmund S. Muskie
United States Senator

EXHIBIT II

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

APR 2 1973

Dear Senator Muskie:

In response to your telegram concerning eligibility of Maine Indians to receive Federal services, the Department of the Interior has taken the position that no relationship was or ever has been established by way of treaty, agreement or statute between the Maine Indians and the United States and that, therefore, the Passamaquoddy and Penobscot Indians are ineligible for services from the Bureau of Indian Affairs.

However, the issue of eligibility is presently involved in a lawsuit entitled Joint Tribal Council of the Passamaquoddy Tribe, et al. v. Morton, et al., (U.S.D.C., Maine, No. 1960), where the tribe is seeking a declaratory judgment that it is entitled to recognition and redress by the United States, especially by the Government taking action against the State of Maine for the taking of its lands and the deprivation of its sovereign rights.

Sincerely yours,

DEPUTY Solicitor

Honorable Edmund S. Muskie
United States Senate
Washington, D. C.

EXHIBIT III

SAM J. ERVIN, JR., N.C., CHAIRMAN
JOHN L. McCLELLAN, ARK.
HENRY M. JACKSON, WASH.
EDMUND S. MUSKIE, MAINE
ABRAHAM RIBICOFF, CONN.
LEE METCALF, MONT.
JAMES B. ALLEN, ALA.
LAWTON CHILES, FLA.
SAM NUNN, GA.
WALTER D. HUDDLESTON, KY.
CHARLES H. PERCY, ILL.
JACOB K. JAVITS, N.Y.
EDWARD J. GURNEY, FLA.
WILLIAM B. SAXBE, OHIO
WILLIAM V. ROTH, JR., DEL.
BILL BROCK, TENN.

ROBERT BLAND SMITH, JR.
CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate
COMMITTEE ON
GOVERNMENT OPERATIONS
WASHINGTON, D.C. 20510

June 5, 1973

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

There are approximately 3,000 Indians -- Penobscots, Maliseets, Micmacs and Passamaquoddies -- residing in the State of Maine, who do not receive the services of the Federal Bureau of Indian Affairs or of the Indian Health Service. The Passamaquoddy Tribe has two reservations, Indian Township and Pleasant Point; the Penobscots have the Indian Island Reservation. The Maliseets and the Micmacs have no land base. However, due to their mobility and to the close ties which exist among the various tribes, there are members of all four tribes on and off the reservations throughout the State. Most off-reservation Indians reside near the reservations in Aroostook, Penobscot and Washington Counties in Maine.

Maine Indians are in great need of assistance from the Federal Government in order to develop their personal and tribal resources and in order to protect their legal rights. The denial of these necessary services by those agencies specifically charged by Congress to serve all Indians, we believe, is artibrary and unfair. It is our understanding that this denial of Federal services by BIA and IHS can be reversed by administrative decision. We urge you to help bring about such a change in policy.

The obligation to provide services for American Indians is rooted in the United States Constitution, and more specifically in the Federal statutes which establish special benefit programs for American Indians. The most important of these is the Snyder Act (42 Stat. 208, 25 USC 13) under which most BIA funds are allocated. The Snyder Act gives the BIA authority to provide a wide range of services to "Indians throughout the United States...". The Bureau of Indian Affairs, on the other hand, has interpreted "throughout the United States" to mean on or near Federally recognized Indian reservations and has limited the availability of its services accordingly.

In adopting this policy the Bureau has denied services to two categories of Indians in Maine: on-reservation and off-reservation. The on-reservation Indians are denied services because they live on a "state" rather than a "Federal" reservation; the off-reservation Indians because they do not live on or near a "Federal" reservation. All Maine Indians, therefore, are denied services because they do not belong to a "federally recognized" tribe. However, the use of the concept "federal recognition" as an administrative vehicle for denying services to Indians has no basis in law. Only Congress can terminate Indian tribes and it has never taken such action with regard to Maine's Indians.

The question of whether a person or community is or is not Indian, then, is largely anthropological and cannot be denied by administrative decision. General Washington and the Continental Congress certainly recognized the Indians of Maine when the requested and received their assistance during the War for Independence. The Indian Office of the Department of War -- the BIA's predecessor -- recognized the Indians of Maine when they surveyed the Indians of the United States in 1821 and when they financed special public schools for Indians in Maine during the 1820's. Indeed, the BIA recognized Maine's Indians when they accepted, and graduated, a number of Maine's Indians at its Carlisle Indian College in the early years of this century.

On July 8, 1970, in your message to Congress on Indian Affairs, you spoke out strongly against the policy of termination, calling such a policy "morally and legally unacceptable". You further called upon Congress to "expressly renounce, repudiate and repeal the termination policy" and urged the passage of a resolution that "would reaffirm for the Legislative branch -- as (you)hereby affirm for the Executive branch -- that the historic relationship between the Federal Government and the Indian communities cannot be abridged without the consent of the Indians".

Mr. President, we support your position that there should be no termination without the consent of the Indians. Moreover, we believe that in an instance in which the termination of Federal services is the consequence of decisions by an administrative agency, the restoration of services can be accomplished without Congressional action. We therefore respectfully urge that you act to bring about a resumption of Federal services by appropriate agencies of the Executive branch to the Indians of Maine. In this period of transition and expansion of programs relating to Indian services, such action has a particular urgency.

Respectfully,

Edmund S Muskie

Edmund S. Muskie
United States Senator

William D. Hathaway
United States Senator

Peter N. Kyros

Peter N. Kyros
United States Congressman

William S. Cohen
United States Congressman

EXHIBIT IV

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUN 21 1973

Dear Senator Muskie:

Thank you for your letter of April 27, 1973, pointing out that the State of Maine recognizes the Micmacs and Maliseet as Indian tribes.

The views expressed in the Deputy Solicitor's letter of April 2, 1973, concerning the ineligibility of the Passamaquoddy and Penobscot Indians for services from the Bureau of Indian Affairs also apply to the Micmacs and Maliseet, since no relationship by way of treaty, agreement or statute exists between them and the United States. As indicated in the Deputy Solicitor's letter, the Passamaquoddy Tribe is now contesting this position with respect to it in the United States District Court for the District of Maine.

OFFICE OF SENATOR
EDMUND S. MUSKIE
WASHINGTON, D.C.
12 PM '73

Sincerely yours,

(Sgd) Newton W. Edwards

For the Assistant to the
Secretary of the Interior

Honorable Edmund S. Muskie
United States Senate
Washington, D. C. 20510